Section 1 – Policy Manual Administration

POLICY MANUAL ADMINISTRATION

Number 1.0

Revised: August 4, 2008
Supersedes Policy 1.0 Dated March 1, 1996

Subject:	**POLICY MANUAL ADMINISTRATION**
Applicable To:	All classified employees, as well as exempt, appointed, temporary, of and contractual, with the Executive Branch of the State of Vermont.
Issued By:	Department of Human Resources
Approved By:	Michael K. Smith, Secretary of Administration

PURPOSE:

The State of Vermont (SOV) Personnel Policies and Procedures Manual is designed to set forth the human resources policies and procedures currently in effect in State government, and to establish the requirements for initiating changes and revising such policies.

3 V.S.A. §309 Duties of Commissioner of Human Resources states: "*... it shall be his duty (13) To compile and publish a manual, which shall be kept current, containing the pertinent statutes, rules and regulations of the department of personnel and its rules and procedure and forms prescribed for use by rule or regulation."*

This manual is designed to further the following goals:

- To provide a uniform system of human resource administration throughout State government.
- To assist managers in the development of sound management practices and procedures, and to make effective consistent use of human resources throughout State government.
- To promote effective communication among managers, supervisors and employees.
- To ensure, protect, and clarify the rights and responsibilities of both the employer and employees.

POLICY STATEMENT:

These policies and procedures are intended to serve as guidelines to assist in the uniform and consistent management of personnel. This policy manual provides essential information on how to accomplish the agency/department mission within the administrative framework of Vermont State Government.

This manual is not, nor are any of its provisions intended to be, part of a contract between the State and any of its employees. None of these provisions shall be deemed to create a vested contractual right in any employee and the State reserves the right to repeal or modify its personnel policies or procedures. State personnel policies and procedures are not to be interpreted as promises of specific treatment. They provide general guidance with respect to the practice and procedure which has developed pursuant to the collective bargaining agreements, rules and regulations, and statutes governing employment matters. In the final analysis, however, the legal rights of employees are those which are created by the agreements, regulations, and statutes, and this manual is intended not to expand nor diminish those rights.

DEFINITIONS:

POLICY - A written directive that is a broad statement of principles.

PROCEDURE - A written directive that is a guideline for carrying out agency/department policies.

General Guidelines

Each agency/department has its own Human Resources (HR) Administrator who **must be consulted** by managers and supervisors **prior to taking any action** if there are any questions regarding State personnel policies and procedures. The HR Administrator may also direct questions to the Department of Human Resources (DHR) Labor Relations Division at (802) 828-3454, or (802) 828-2972 for further clarification.

Individual departments may expand State personnel policies to fit their operating needs. However, departments should adhere to the Work Rules Article in the Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. when expanding any work rules. In addition, any department policies should be reviewed and approved by the DHR Labor Relations Division **prior to implementation**.

Policy Content and Format

The first page of every policy will contain the following information:

Policy Number
Effective Date
Subject of the Policy

Information to Whom the Policy Applies
Distribution by the Department of Human Resources
Approval by the Secretary of Administration

Generally, all policies will contain a statement of purpose, a policy statement, as well as any definitions and general guidelines.

Responsibility

It is the responsibility of all agency/department heads to ensure that all supervisors are made aware of personnel policies and procedures. Where so directed by a particular policy, copies of that policy must be posted in conspicuous places for all employees to see, and if a policy states that a copy must be provided to each employee, it is the responsibility of the agency/department head to ensure that this occurs.

In order to fulfill duties as a manager, supervisor, or HR Administrator, it is necessary to be familiar with personnel policies and remain up-to-date by periodically reviewing them.

In addition, the policies and procedures contained in this manual should be made accessible to all employees.

Policy Development

Drafting of new policies and revision of existing policies will be coordinated by the DHR Labor Relations Division.

Changes to or creation of policies and procedures may be proposed by agency/department heads or HR Administrators. Drafts should be forwarded to the DHR Labor Relations Division, which will coordinate the review, discussion, approval, and distribution process.

The Secretary of Administration is the sole and final authority for all decisions related to the approval, revision, or elimination of statewide personnel policies.

Maintenance of Policy Manual

All original policies and procedures will be maintained by the Department of Human Resources.

Periodically, the Labor Relations Division will review all current policies and procedures for validity and update and revise them as necessary. Notice of revision, addition, or deletion of a personnel policy will be provided to all agency/department heads and/or HR Administrators for dissemination as required.

Distribution

Personnel policies are available on the DHR website and through agency/department HR Administrator(s). The manual can be accessed via the DHR website.

/s/ 8/4/08

Michael K. Smith, Secretary
Agency of Administration

Date

Section 2

RULES AND REGULATIONS FOR PERSONNEL ADMINISTRATION

Number 2.3

Effective Date: July 1981

Subject: RULES AND REGULATIONS FOR PERSONNEL ADMINISTRATION

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It is important to understand the context in which these Rules are applicable. They were written before collective bargaining existed in Vermont, and many of the policies addressed in the Rules have since been also addressed, and sometimes modified, in the Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. **If the Rules are inconsistent with the collective bargaining agreements, the agreements supersede the Rules. Therefore, it is important to review the Rules and the agreements together in order to ensure the Rules accurately reflect the current policy of the State.**

With such admonitions in mind, the Personnel Rules apply generally to the classified service State work force. They apply to managers and State employees who are designated as confidential employees. Managers and confidential employees have historically had the provisions of the collective bargaining agreements selectively extended to them by the Secretary of Administration. To the extent that the agreements have not been extended to these employees, the Personnel Rules and Regulations establish the policies which apply to them and outline their employment rights.

The Personnel Rules and Regulations generally do not apply to exempt, appointed, or temporary employees of the State of Vermont.

Further clarification can be obtained from the agency/department personnel officer, or from the Department of Personnel, Employee Relations Division, 802-828-3454.

CHAPTER 1 - PURPOSE

1.01 **General Purpose:** These rules shall give effect to the provisions of Chapter 13, Title 3, Vermont Statutes Annotated, and shall be applied in accordance with the objectives of the personnel law, among which are:

To provide a system of personnel administration based upon merit principles and sound management concepts;

To provide equal opportunity to all eligible persons to compete for State employment on a basis of demonstrated ability and potential;

To establish and maintain an equitable classification and compensation program designed to provide State government with sufficient numbers of qualified personnel;

To promote efficiency and high morale among State employees; and

To develop a program of recruitment, training, advancement, and tenure which will make a career in the State service attractive to persons of ability and dedication.

1.02 **Adoption and Amendment:** The Rules and Regulations for Personnel Administration are adopted under the authority of 3 V.S.A. 310 (d) as amended. They shall continue in effect as hereby adopted until amended or repealed, or amended, modified or superseded by amendment to the personnel law or pay plan by action of the General Assembly.

CHAPTER 2 - DEFINITIONS

Chapter 2 has not been changed by deletion or amendment of those definitions which also appear in the appendices to the general contract between the State of Vermont and Vermont State Employees' Association, because the new definition may not fit the context in which it was used in the old rules. An asterisk identifies those definitions which appear in the contract. The contractual definitions should be used when referring to those policies covered by the contract.

2.01 **Definitions:** The following definitions apply throughout these rules and regulations unless the context clearly requires another meaning.

*2.011 AGENCY means any department, board, commission or other unit of the government of the State and the employees under its control.

*2.012 ALLOCATION is the determining of the classification of a position by the Commissioner.

2.0121 REALLOCATION is a change of a position from one class to another class due to (a) a gradual increase or decrease in duties and responsibilities, or (b) the addition or subtraction of significant duties and responsibilities at a given point of time.

*2.013 APPOINTING AUTHORITY means the officer, board, commissioner, person or group of persons authorized by statute or lawfully delegated authority to make appointments.

*2.014 APPOINTMENT is the designation of a person as an employee and his induction into the designated position in accordance with the provisions of these rules.

*2.015 ASSIGNMENT is the placing of a position class in an authorized pay scale.

2.0151 REASSIGNMENT is the change of a position class from one pay scale to another pay scale based upon (a) recruitment or retention factors, ,or (b) an increase or decrease in the level of duties and responsibilities of a one-position class.

2.016 BOARD means the Personnel Board.

*2.017 CERTIFICATION is the submission to an appointing authority of the names of one or more available persons on a register who can be considered for appointment to a particular position.

*2.018 CLASS means one or more positions sufficiently similar as to the duties performed, degree of supervision exercised or received, minimum requirements of training, experience, or skill, and such other characteristics that the same schedule of compensation may be applied to each position.

*2.019 CLASSIFICATION PLAN means the orderly arrangement of positions into separate and distinct classes.

*2.020 CLASSIFIED EMPLOYEE means any person who is paid a salary or wage for work performed in a permanent position in the State classification plan. Except as otherwise indicated, all employees referred to herein are deemed to be "classified employees".

2.0201 COMMISSIONER is the Commissioner of Personnel or legally-delegated representative.

*2.021 DEMOTION is a change of an employee from a position of one class to a position in another class for which a lower maximum rate of pay is provided.

2.022 DIRECTOR (deleted)

2.023 ELIGIBLE as a noun, means a person whose name appears on a register; as an adjective, it means the state or condition of satisfying all requirements for a process named.

2.024 ESTABLISH is with reference to a position, the creation of a position by approved administrative action.

2.025 ESTABLISHMENT LIST means a list of established positions, by classes, existing in each agency.

*2.026 EXAMINATION means all the tests of fitness, including the probationary period, that are applied to determine the qualifications of any applicant or group of applicants in appointment, promotion, transfer, or demotion to positions of any class.

2.0261 HIRING CERTIFICATE is the prescribed form on which the names of persons who may be considered for appointment to a particular position have been certified.

*2.027 ORGANIZATION UNIT means either an entire agency or some part of an agency which is designated in writing by the appropriate appointing authority to be a unit for the purposes of administration of these rules.

*2.028 PERMANENT STATUS means that condition attained by an employee upon satisfactory completion of an original probationary period entitling him to tenure and the statutory right of appeal. Additional rights and privileges including consideration for promotion, transfer, restoration, reinstatement and re-employment apply at any level where an appropriate probationary period has been completed.

*2.029 POSITION means a group of current duties and responsibilities assigned or delegated by competent authority and requiring the full-time or part-time employment of one person.

*2.030 PROBATIONARY PERIOD means the working test period during which an employee is expected to demonstrate his capacity for the position by adequate performance of its duties.

2.032 PUBLIC HEARING (deleted)

2.033 PUBLIC NOTICE (deleted)

*2.034 RE-EMPLOYMENT is a rehiring of a former permanent-status employee separated by layoff through certification from a re-employment list.

*2.035 REGISTER is a list of eligible persons (including candidates for re-employment, competitive appointment, transfer, demotion, and restoration) from which a hiring certificate for a given position is compiled.

*2.036 REINSTATEMENT is the return of the name of an eligible person to a register.

*2.037 RESTORATION is the rehiring of a former permanent-status employee to the position previously held by him, or in a position of the same class, or in a position assigned to an equal or a lower pay scale than the class of position previously held by action dependent upon his qualifications as exhibited by his former employment.

*2.038 SEPARATION is the termination of an employee from employment by the State through resignation, removal, dismissal, retirement, or layoff.

2.0381 DISMISSAL is an involuntary separation of an employee other than by layoff, retirement or removal.

*2.0382 LAYOFF is an involuntary separation from a position of an employee whose service record has been adequate or better either by reason of a reduction of force due to lack of work or lack of funds, or by reason of discontinuance of the position as previously established.

2.083 REMOVAL is the separation of an employee from a position for failure to report to duty.

2.0384 RESIGNATION is a separation of an employee from the State service by his own voluntary act.

2.0385 RETIREMENT is the separation of an employee from the State service in accordance with the provisions of the Vermont Employees' Retirement System or other retirement systems under which an employee is eligible to receive retirement benefits.

*2.039 STATE SERVICE as herein used refers to service rendered by a classified employee while occupying a permanent position in the State classification plan.

2.040 SUSPENSION is the placing of an employee on involuntary leave without pay:

(a) for cause as a disciplinary measure; or

(b) when an employee has been arrested, indicted, and his subsequent return to work constitutes, in the opinion of his appointing authority, either:

(1) a clear and present danger to the public, people under the employees' care, or co-workers; or

(2) a factor that is so disruptive to the functioning of the employee's agency, department, or institution that the employee's presence on the job impairs his employing agency's or office's ability to achieve its legislatively mandated goal.*

2.041 TRANSFER is a change of an employee (1) from one position to another position of the same class or (2) from a position of one class to a position of another class within the same pay grade, in any organizational unit.

2.042 VETERANS' PREFERENCE is the special consideration given to a veteran, an ex-serviceman or ex-servicewoman or to a member of his/her family in accordance with 3 V.S.A. 310(f) and 20 V.S.A. 1543.

2.043 WARNING PERIOD means a specified period immediately following the receipt of a marginal or unsatisfactory performance rating by a non-probationary employee, during which he is expected to achieve an adequate level of performance.

* As amended in the Memorandum of Agreement between the State of Vermont and the Vermont State Employees' Association dated December 14, 1973.

CHAPTER 3 - STATEMENT OF POLICY

3.01 **Employee Conduct**: Every employee shall fulfill to the best of his ability the duties and responsibilities of his position. In his official activities, the classified employee shall pursue the common good and shall uphold the public interest, as opposed to personal or group interest.

3.011 Every employee shall during his hours of duty and subject to such other laws, rules, and regulations as pertain thereto, devote his full time, attention, and efforts to his office of employment.

3.012 An employee shall not use his position to secure privileges or exemptions for himself or others.

3.013 An employee shall not use State property or equipment for his private use or for any use other than that which serves the public interest.

3.014 An employee shall not directly solicit, receive or agree to receive any compensation, gift, reward or gratuity from any source except the State of Vermont for any matter or proceeding connected with or related to the duties of such employee, unless otherwise provided for by law. Honoraria or expenses paid for papers, talks, demonstrations, or appearances made by employees on their own time and not related to their employment by the State shall not be deemed a violation of this section.

3.015 An employee shall not engage in any employment, activity or enterprise which has been or may be determined by the appointing authority to be inconsistent, incompatible, or in conflict with his duties as a classified employee or with the duties, functions, or responsibilities of the agency by which he is employed.

3.016 An employee shall not disclose confidential information gained by him by reason of his official position except as authorized or required by law, nor shall he otherwise use such information for his personal gain or benefit.

3.02 **Political Activity:** An employee as defined in these rules and regulations shall not use his official authority for the purpose of interfering with or affecting the nomination or election of any candidate for public office. An employee shall not command or solicit from any other employee direct or indirect participation in any political activity or enforce or solicit contribution for any political party, organization, or candidate. An employee shall not offer himself as a candidate for any paid partisan political office at the state or

national level. An employee shall retain his right to vote and to express freely his opinion on all political subjects. An employee shall not be prohibited from participation in local community activities or from holding local public office in the community in which the employee resided, provided that such activity does not conflict with section 3.01.*

3.03 **Discrimination:** Discrimination against any person in connection with recruitment, examination, appointment, training, promotion, retention, or any other personnel action because of race, national origin, or any other non-merit factors, or political or religious opinions or affiliations is prohibited, with the exception of any individual who is a member of or affiliated with any organization whose avowed objectives include overthrow of the United States or the State government by force. As to any such individual who may be a State employee, membership in or affiliation with such an organization shall be grounds for dismissal from State service. The burden of proof of such membership or affiliation will rest with the department head. Any applicant for State employment who feels adversely affected in his opportunity for employment, or any employee not a member of a bargaining unit who feels adversely affected in his status as an employee or in his conditions of employment shall have the right to appeal to the Vermont Labor Relations Board under 3 V.S.A. 1001.

* Employees of agencies and departments receiving federal funds are also subject to the Federal Hatch Act. The prohibition of campaigning for and service in a paid partisan state or national political office was modified in 1980 by amendment of state law (21 V.S.A. 496) and Article 30 of the 1980-1981 collective bargaining agreement.

CHAPTER 4 - ORGANIZATION

4.01 **Personnel Board:** The Personnel Board shall consist of five members as follows: The Commissioner, ex officio, without vote, and three members who shall be members of known interest in the improvement of public administration and in efficient government personnel. These three members shall be appointed biennially by the Governor with the advice and consent of the Senate for a term of six years of for the unexpired portion thereof in such manner that not more than one term shall expire in the same biennium. The Governor shall appoint one additional member, without vote, who shall be a department head. The Governor shall biennially designate the chairman. Meetings of the Board shall be held upon call of the chairman. Any three agencies may request the chairman, in writing, to call a meeting of the Board. An agency shall have the right to be represented at any meeting of the Board, except when it meets in executive session, but such representation shall be without voting power.

4.02 **Commissioner of Personnel:** With the approval of the Governor, and advice and consent of the Senate, the Secretary of Administration may appoint a Commissioner of Personnel. (3 V.S.A. 2251)

4.03 **Agency Personnel Officer:** The appointing authority of each agency shall assign continuing responsibility for agency internal personnel functions to one or more employees in the agency.

CHAPTER 5 - STATE CLASSIFICATION PLAN

5.01 **State Classification Plan**: The State Classification Plan shall comprise all of the positions in the State service except those exempted by 3 V.S.A. 311 or any other provision of law. The Commissioner shall allocate each position to a class, based upon factors as applicable, including the following:

Knowledge and skills required

Responsibility for independent action

Complexity and variety of duties

Responsibility for supervision

Effort and working conditions

The Commissioner shall administer the State Classification Plan so as to meet the needs of changing agency organization and programs. (3 V.S.A. 310)

5.02 **Establishment List:** The Commissioner shall maintain an establishment list for each agency.

5.03 **Allocation of Positions:** Upon notification of establishment by proper authority, the Commissioner shall allocate every new position in the classified service to an appropriate position class.

5.04 **Class Specifications:** Each class shall be identified by a written specification which shall include an appropriate title, a statement of the nature of the work performed, and a statement of the minimum qualifications required of the applicants. Each agency shall prepare and submit specifications to the Commissioner for approval.

5.05 **Continuing Review:** The Commissioner shall maintain a continuing review of the classified positions in the state for the purpose of adjusting the allocation of positions in which duties have materially changed or which appear to be improperly allocated.

CHAPTER 6 - COMPENSATION

6.01 **Compensation Plan:** The State Compensation Plan as adopted under 3 VSA 310(c) and 904 shall be applicable to all positions in the classified service. The plan shall be designed so as to attract and retain highly competent employees, to assure that wages and salaries paid by the State of Vermont are competitive with those paid in private and public organizations for similar jobs, to pay equitable differentials for differences in the kind, difficulty and responsibility of the work, and to stimulate and recognize high level performance. Salaries paid in accordance with this compensation plan are subject to approval by the Commissioner.

6.02 **Revision of the Pay Plan:** (deleted. see 3 VSA 310(c).)

6.021 Whenever as a result of recruitment or retention problems it appears that professional, technical, scientific, or other special skills are in short supply in the labor market, the Commissioner, with the approval of the Governor, may adjust the compensation of position classes requiring such skills to meet such conditions without public hearing or notice.

6.03 **Correction of Administrative Errors:** The Board with the approval of the Governor shall under the authority of this rule have full power and authority to correct administrative errors or mistakes which do not fully carry out the intent of the pay plan.

6.04 **Administration of Compensation Plan:** The compensation plan shall be interpreted and given effect as follows:

6.041 No employee shall be paid a salary greater than the maximum or less than the minimum for the class as fixed by the compensation schedule, except in special instances approved by the Personnel Board or the Commissioner.

6.042 The minimum rate for the class shall be the hiring rate which shall apply upon original appointment to a position in the State service, except as approved by the Commissioner in instances in which (a) a shortage of qualified applicants is known to exist; (b) special qualities of training and experience are requested by the appointing authority; or (c) a candidate possesses exceptional and outstanding qualifications for a position.

6.0421 When a shortage of qualified applicants is known to exist, or where special qualities of training and experience are requested by the appointing authority, the Commissioner shall (a) approve the positions to which this exception may be applied; (b) issue a recruitment bulletin containing a statement that appointment may be authorized at an amount above the minimum rate.

6.0422 Following completion of the recruitment, examination and certification process for a position, the Commissioner may, upon request by an appointing authority, authorize employment of a person at an amount in excess of the minimum rate of the pay scale, based upon qualifications substantially in excess of (a) the minimum training and experience requirements for the class, and (b) qualifications presented by other qualified and available candidates.

6.043 All rates in the scales of pay are those authorized for full-time employment. Payment for part-time service shall be prorated at the rate for full-time service.

6.044 The rates of pay prescribed shall be deemed to constitute full compensation. Allowances of maintenance and other services or commodities supplied to the employee and to any dependents shall be deducted from the salary payable to extent of their fair value as fixed by equitable appraisal.

6.045 When the agency classification plan requires an employee to perform work seasonally in more than one class, he shall be paid the rate for the class in which the work is performed, as certified by the appointing authority.* The basic classification as designated by the Commissioner, shall govern salary changes.

6.046 An employee returning to State service following leave of absence for extended military duty shall be compensated in accordance with the current collective bargaining agreement.

6.05 **Pay Increases:** Pay increases shall be based upon performance and administered as follows:

6.051 Salary increases within prescribed pay ranges shall be based upon employee performance evaluated annually by individual supervisors in accordance with these rules. The Personnel Board** shall establish the salary grid and the effective date(s) for granting such increases.

6.0511 An employee entering a position through open competitive appointment, upon satisfactory completion of an original probation, shall be granted a salary increase to the end of probation rate in accordance with the compensation plan.

6.052 Employees whose performance is outstanding between annual ratings may be recommended for a special salary adjustment in recognition of meritorious service. The Commissioner with approval of the Personnel Board shall establish guidelines for the administration of this section.

6.06 **Pay Increases Withheld:** An employee who receives a performance rating of unsatisfactory or marginal shall not be eligible for a pay increase.

6.061 When the services of an employee are recorded as unsatisfactory or marginal, the employee shall be officially notified that he may be subject to demotion or dismissal and shall be informed of specific ways by which his performance may be improved. If the employee has completed a probationary period for the class, he shall be placed in a specific warning period not to exceed twelve months.

6.062 An employee who at the time of an annual salary adjustment is not granted an increase because of unsatisfactory or marginal work performance may, upon attainment of an adequate rating, be granted a salary increase not to exceed the maximum established by the Board for that category of rating.

6.07 **Salary Adjustments Pertaining to Promotion, Demotion, Transfer, Reallocation, Reassignment, Restoration, Re-Employment, or Alternate Rate:** Adjustments in the rates of pay of employees who are promoted, demoted, or transferred, restored or re-employed under section 12.07 or 12.08, or seasonally employed in different classes, and incumbents of reassigned classes or reallocated positions shall be governed by the following provisions:

6.071 **Promotion**: see attached compensation provisions.

6.072 **Demotion:** An employee who is rated as fully satisfactory and who is demoted to a position in a lower class shall be reduced in salary to the maximum of the lower class, or if his salary is within the range of the lower class, it may be reduced by an amount not to exceed 5 percent. An employee who is rated less than fully satisfactory and who is demoted to a position in a lower scale shall be reduced in salary by an amount not less than 5 percent, except that the new salary amount shall not exceed the maximum nor be less than the end of probation rate of the lower scale.

6.0721 An employee demoted to a position in a lower class during a promotional probationary period shall be paid the salary received before promotion provided such rate does not exceed the maximum of the lower class, in which event salary shall be the maximum of the lower class.

6.0722 An employee returned to a position in a lower pay scale upon termination of a promotion by limited appointment shall be paid the salary in effect in the lower level class before promotion plus any salary adjustment to which he would have been entitled by virtue of continuous service in the lower class.

6.0723 An employee demoted to a position in a lower class during a probationary period of an original appointment shall be paid the minimum rate of the lower class.

6.073 **Transfer:** A transferred employee shall be paid the salary in effect in previous position occupied.

6.074 Position Reallocation: see attached compensation provisions.

6.0741 A permanent status employee with three or more years of continuous State service whose position is reallocated downward through no fault of his own and whose service in the position is at least fully satisfactory shall not be subject to a reduction in salary.

6.0742 A permanent status employee with less than three years of continuous State service whose position is reallocated downward through no fault of his own and whose service in the position is at least fully satisfactory shall continue to receive the same rate of pay unless such rate is over the maximum of the lower class, in which case the salary shall be the maximum of the lower class.

6.0743 **Automatic Reallocation:** see attached compensation provisions.

6.075 **Reassignment:** see attached compensation provisions.

6.076 Alternate Rate: An employee's basic classification shall determine his salary during alternate class employment. If the alternate class is assigned to a higher pay scale, salary shall be increased in accordance with section 6.071, Promotion. If the

alternate class is assigned to a lower pay scale, salary shall be reduced in accordance with provisions of section 6.072, Demotion. Upon return to the basic classification, salary shall be the same as would have been in effect with continuous service in the basic classification plus any salary adjustment which would have accrued to such rate.*

6.077 **Restoration:** An employee restored (section 12.07) to fill a position as provided in these rules shall be paid at any rate in the pay scale not in excess of the salary received in the previous position plus any increase which would have accrued to such rate in the interim because of adjustment to the pay scale or compensation plan.

6.078 **Shift Differential**: see collective bargaining agreement.

6.08 **Effective Date of Personnel Actions Affecting Pay:** Personnel actions affecting pay shall be recommended by an appointing authority and submitted through the Commissioner to the Governor, or his duly authorized representative, for his approval and shall be effective as follows:

6.081 Subject to the provisions of sections 9.01 and 10.01 of these rules, an original permanent appointment shall be effective on the date specified by the appointing authority.

6.082 Pay increases or decreases, including promotional appointments, shall become effective on the first day of the appropriate bi-weekly payroll period.

* See memo of agreement between V.S.E.A. and the State of Vermont executed June 12, 1974, for special compensation provisions for nonseasonal alternate rate pay; see also attached compensation provisions.

** Compensation Review Board.

CHAPTER 7 - RECRUITMENT AND EXAMINATION

7.01 **Recruitment for Examination:** The Commissioner shall give public notice of each examination at least two weeks in advance of the date on which the examination is to be given, except for classes of known recruitment difficulty, in which instance the Commissioner may reduce such period of advance notice. Each eligible applicant shall be notified of the conditions and methods of competition.

7.011 For positions in the State service in which turnover is normally high due to promotions, transfers, and separations, or for which there are small numbers of suitable applicants, the Commissioner may assign such positions to a continuous recruitment and examination program with the objective of maintaining adequately-staffed registers of qualified applicants. The Commissioner shall periodically announce examinations for all positions assigned to the continuous recruitment and examination program.

7.02 **Citizenship and Residence:** All applicants for appointment to the State service shall be citizens of the United States, except as provided in 3 VSA 262.* Residence in the State of Vermont shall not be a prerequisite for application or appointment except that preference to Vermont residents shall be given by appointing authorities in instances in which a non-resident and a Vermont resident possess substantially equal qualifications.

7.03 **Filing Applications:** Application for any position shall be made to the Commissioner on a prescribed form. The Commissioner may require proof of the possession of any license, degree, or other specified qualification, citizenship, or veteran's status claimed by an applicant.

7.04 **Eligibility for Admission to Examination:** Eligibility to take an examination shall be based on the minimum qualifications for application to the class as outlined in the class specification and any added requirement contained in the announcement.

7.05 **Decentralization of Selection:** The Board, or if so delegated by the Board, the Commissioner, in order to serve more efficiently the needs of certain departments with employees actively scattered throughout the state may, upon request, decentralize the selection process.

7.06 **Disqualification of Applicant:** The Commissioner may disqualify from admission to the examination or appointment any person if:

7.061 He is found to lack any of the preliminary requirements established for the class of position.

7.062 He is so disabled as to be rendered unfit for the performance of the duties of the class.

7.063 He is addicted to the use of drugs or the habitual use of intoxicating liquors to excess.

7.064 He has been convicted of a felony or other crime involving moral turpitude.

7.065 He has made a false statement of material fact in his application.

7.066 He has previously been dismissed from any service for delinquency, misconduct, or other similar cause.

7.067 He has used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment.

7.068 He has directly or indirectly obtained information regarding examinations to which as an applicant he was not entitled.

7.069 He has failed to submit his application correctly or within the prescribed time limits.

7.0691 He has taken part in the compilation, administration, or correction of the examination.

7.0692 The Commissioner finds sufficient reason other than the above.

7.07 **Notice of Disqualification:** A disqualified applicant shall be promptly notified of such action, and an applicant who is not admitted to an examination because of failure to meet the preliminary requirements shall be notified by letter to his last-known address sufficiently in advance of the examination to allow for a review of his rejection. Proof of qualification shall rest with the applicant.

7.08 **Character of Examination:** Examination shall be practical and shall be construed to reveal the capacity of the person for the particular class as well as general background and related knowledge. Except as provided for in 3 V.S.A. 305(d),* The Commissioner shall determine which of the following either singly or in combination shall constitute the examination for a position:

A written examination

A rating of training and experience

An oral examination

A performance test

The probationary period shall be a part of the examination process for every position in the classified service.

* The U.S. District Court in an opinion dated October 21, 1971, adjudged 3 V.S.A. 262 unconstitutional as in conflict with the Fourteenth Amendment and the supremacy clause of the U.S. Constitution. In effect, therefore, there is no citizenship requirement. An alien must, however, comply with federal immigration laws, in that he must have a work visa or a permanent residence visa before he may compete for and be hired into a State position.

CHAPTER 8 - REGISTERS

8.01 **Establishment of a Register:** The Commissioner will prepare a list of persons qualified and eligible for appointment to positions in one or more classes. This list will include candidates for re-employment, competitive appointment, transfer, demotion and restoration. Candidates for competitive appointment must have passed the appropriate examination and shall be listed in order of qualifying score, highest score first.

Candidates for competitive appointment may include agency promotional, State promotional and/or open-competitive candidates.

8.011 Scores on a register will normally remain active for two years from the date of examination, except that this period may be reduced or extended by the Commissioner.

8.012 The name of a candidate may remain on a register so long as he has an active score or, if he has no score, so long as he remains eligible for re-employment, transfer, demotion or restoration, unless removed at the candidate's request or by the Commissioner for reasons authorized by sections 7.06 and 8.02.

8.013 Veterans' preference will be granted as authorized by law in the manner described in sections 8.0131 through 8.0136 below.

8.0131 Those veterans, ex-servicemen or ex-servicewomen who at the time of application are totally-disabled as a result of a service-connected disability shall have ten points added to their qualifying score, subject to sections 8.0135 and 8.0136.

8.0132 Spouses of totally-disabled veterans, ex-servicemen or ex-servicewomen whose disability is service-connected and who themselves have been unable to qualify on a State civil service examination by reason of their disability, and unmarried widows or widowers of deceased veterans, ex-servicemen or ex-servicewomen whose military service occurred during a period of war, in a campaign or expedition for which a campaign badge has been authorized, or subsequent to June 30, 1955, shall have ten points added to their qualifying score, subject to section 8.0135.

8.0133 Those veterans, ex-servicemen or ex-servicewomen who at the time of application are partially-disabled as a result of a service-connected disability shall have five points added to their qualifying score, subject to sections 8.0135 and 8.0136.

8.0134 Those veterans, ex-servicemen or ex-servicewomen whose military service occurred during a period of war, in a campaign or expedition for which a campaign badge has been authorized, or subsequent to June 30, 1955, and who do not qualify for veterans' preference under section 8.0131 or 8.0133 shall have five points added to their qualifying score, subject to sections 8.0135 and 8.0136.

8.0135 Veterans' preference points shall not be added to the score of an individual otherwise eligible for veterans' preference unless all of the following conditions are met:

(1) The individual meets the minimum qualifications for application for the class:

(2) The individual achieves a qualifying score on the examination:

(3) An appointing authority requests an open-competitive certificate which is drawn from the register upon which the individual's name appears;

(4) Military service was active duty of at least ninety days duration (not counting service under an initial period of active duty for training as part of the "six month" Reserve or National Guard program) rendered in any branch of the armed forces of the United States and terminated under honorable conditions.

8.0136 No veterans' preference will be given when the monthly service retirement allowance of any individual at the time of application is more than the median of all different armed forces monthly net allowances existing at time of application.

8.02 **Removal of Names from a Register:** The Commissioner may remove the name of an eligible from a register for cause, such as:

8.021 Inability to locate an eligible.

8.022 Declination of an eligible of three offers of permanent appointment in a locality for which the eligible has stated he was available.

8.023 Failure to reply to an inquiry concerning availability when such inquiry is made by the Commissioner or his authorized representative.

8.024 If, in the exercise of his choice provided under Chapter 10, the appointing authority passes over the name of an eligible on a register in connection with three separate appointments he has made from the register, written request may be made of the Commissioner that the name of such eligible be omitted from any subsequent certification to the same register. The name of such eligible shall thereafter not be certified to him from that register for future vacancies in that class of position.

8.025 If after interview, the name of an eligible has been passed over by appointing authorities in connection with six separate appointments within the immediately preceding two-year period, the Commissioner may remove the name of such eligible.

* Omitted from statutes - 1969.

CHAPTER 9 - CERTIFICATION OF NAMES FROM A REGISTER

9.01 **Request for Certification**: When a classified position becomes vacant or when a new position is established and such position is to be filled by competitive procedures, a request for certification shall be submitted to the Commissioner on a prescribed form. Upon receipt of such request, the Commissioner will certify from the appropriate register the names of available persons having the three highest qualifying scores, provided that if there are fewer than five available candidates in the top three qualifying scores, the next lower qualifying score or scores shall be certified in order that an appointing authority have a minimum of five candidates with scores to consider. If the request is for an open-competitive certificate, the remaining candidates on the register who are eligible for veterans' preference will be given such preference as is authorized by law; if such an individual's score, with preference added, is equivalent to or higher than the

lowest qualifying score certified, that person's name will be included on the hiring certificate. The score shown on an open-competitive certificate will be the total of the candidate's qualifying score and veterans' preference points, if any. Candidates eligible for re-employment, transfer, demotion or restoration will be certified without scores as appropriate.

9.011 An individual who has already been certified and is still under consideration for a particular vacancy will not be certified again on the same hiring certificate for the same vacancy.

9.012 A hiring certificate will expire thirty days following issuance unless extended by the Commissioner.

9.013 Each candidate who is interviewed subsequent to being certified on an open-competitive, State promotional or agency promotional certificate shall be notified promptly by the hiring agency when a decision is made regarding the position for which he was certified. The Commissioner may require a copy of each letter of notification to be filed with the Department of Personnel.

CHAPTER 10 - APPOINTMENT

10.01 **Approval of Appointments:** Prior to the effective date the appointing authority shall submit to the Commissioner on a prescribed form each request for an appointment. If approved by the Commissioner the request shall be transmitted to the Governor or to his authorized representative for executive approval.

10.02 **Permanent Full-Time Appointment:** Selection for permanent appointment shall be made for each position from the certificate submitted by the Commissioner under the provisions of chapter 9, section 9.01, except as otherwise provided. Persons so selected shall after satisfactory completion of a probationary period be given permanent status in the position occupied.

10.03 **Permanent Part-Time Appointment:** When the services of a qualified person are needed for a specified period of time in the instance of recurring seasonal workload, a permanent part-time appointment may be made by the appointing authority. The Commissioner shall certify under the provisions of chapter 9, section 9.01, the names of eligible persons who are willing to accept a permanent part-time appointment. Permanent status shall be acquired in accordance with section 10.07.

10.04 **Provisional Appointment:** In the absence of three available names on an appropriate register the appointing authority may request the Commissioner to approve the provisional appointment of a person meeting the minimum qualifications of the class, pending examination and establishment of a register. Provisional appointments shall not be continued for more than thirty days after an appropriate certificate of eligibles is submitted to the appointing authority.

10.05 **Limited Appointment:*** When the services of a person are required to fill a position temporarily vacant by reason of leave of absence or otherwise, a limited appointment may be made by the appointing authority. The Commissioner shall certify under the provisions of section 9.01, the names of eligible persons who are willing to accept a limited appointment. In the absence of a list of eligibles, appointment may be made in accordance with the provisions of section 10.04.

10.051 Employees who accept limited appointments must be recertified from a certificate of eligibles if the position becomes available for permanent appointment.

10.052 Persons who accept limited appointments in accordance with Chapter 9 shall be entitled to annual leave and sick leave accrual, annual salary adjustments and payment for holidays.

10.053 Limited appointees may be assigned to the same position as that already assigned to a permanent employee who may be on extended sick leave. In such instances, both the limited appointee and the employee on sick leave shall be appropriately compensated, regardless of the temporary necessity to include both individuals in the same position.

10.06 **Probationary Period:** The probationary period is an essential part of the examination process. As a continuation of this process each person given an appointment under the provisions of sections 10.02, 10.03, 10.04, 10.05, 11.02, 11.03, or 11.04 shall serve the probationary period specified for the class as approved by the Commissioner. This specific period shall not exceed twelve months.

10.061 On recommendation of the appointing authority and with the consent of the Commissioner the probationary period for a designated individual may be extended for a definite period of time, with written notification to the designated employee of the reason for extension and the definite period thereof. No probationary period may be extended by more than six months beyond the specified period for the class.

10.062 The probationary period for an employee accepting a permanent part-time appointment shall start on the date of initial part-time employment.

10.063 Time spent by an employee in a probationary period of a provisional or limited appointment shall be credited toward completion of the probationary period requirement if such employee receives a permanent appointment.

10.064 A performance evaluation of at least "Adequate" shall be required for completion of probation.

10.065 The appointing authority, or some member of the agency's staff delegated authority in writing to do so, shall notify a probationary employee in writing that he has (or has not) satisfactorily completed the required probationary period. A copy of such notice shall be filed with the Commissioner.

10.07 **Status of Employee:** An employee appointed to a permanent or seasonal position in accordance with Chapter 9 shall gain permanent status upon satisfactory completion of an original probationary period. Permanent status entitles an employee to the statutory right of appeal* and to additional rights and privileges as provided by the "Rules and Regulations for Personnel Administration".

* 'Limited' as used here means 'Interim', not Limited-service. Please refer to Agency of Administration Bulletin #4.10 **Categories of Employment** for establishment procedures for limited-service positions.

CHAPTER 11 - PROMOTION, DEMOTION, TRANSFER

11.01 **Method of Making Promotions**: As far as is practicable and feasible, a vacancy shall be filled by promotion of a qualified employee based upon individual performance, as evidenced by recorded performance evaluation reports, and capacity for the new position.

11.011 A candidate for promotion must be certified by the Commissioner to possess the qualifications for the higher position set forth in the specifications for the class of position.

11.012 An incumbent of a position which is reallocated or reassigned to a higher level be cause of the gradual addition of more responsible duties shall be promoted automatically to the position without reference to the minimum qualifications, provided that he has served satisfactorily in the position for the previous eighteen months. Such employee shall not be required to serve a probationary period.

11.02 **Promotion by Competitive Examination:** If it is determined by the agency to fill vacancies in a particular class of position by promotional competitive examination, such examination shall be given under the direction of the Commissioner. A promotional competitive examination shall consist of any combination of the following: written tests, and oral examinations. The combination in each case shall be determined by the Commissioner in advance of the examination and shall take into consideration practices recognized in the field of personnel administration. All employees who receive a passing grade shall be placed on a promotional register for the class of position in order of their examination ratings.

11.03 **Promotion by Noncompetitive Examination:** If it is determined by the agency to fill a vacancy by a noncompetitive examination, an employee proposed for promotion shall be examined by the Commissioner in accordance with section 11.02 of these rules and regulations and, if found to qualify for the class, shall be so certified by him. An inter-agency promotion shall not be made through noncompetitive examination.

11.04 **Promotion by Administrative Action:** If an appointing authority elects to fill a vacancy by the promotion of a qualified and eligible employee of the agency by administrative action, he shall certify to the Commissioner that the employee has been

selected for promotion on the basis of performance evaluation reports maintained over a substantial period of time. the Commissioner shall then certify whether or not the employee designated for promotion meets the minimum requirements for the higher class of position.

11.05 **Demotion:** An employee may be demoted at the discretion of the appointing authority for cause stated in writing to the employee or because of reduction in force.

11.06 **Transfer:** Interagency transfers shall be made on the certification of the Commissioner with the approval of the appointing authorities concerned and the Governor or his representative. Transfers from one class to another shall be made on the certification of the Commissioner in accordance with the provisions of these rules and regulations.

* see 3 VSA 928(b), 1001, and the current collective bargaining agreement.

CHAPTER 12 - TENURE, SEPARATION, AND REINSTATEMENT

12.01 **Tenure of Employment:** An employee will not be subject to dismissal or suspension except for cause stated in writing to the employee.

12.02 Resignation: An employee who resigns shall give at least two weeks' notice and reasons for such action in writing to the appointing authority. A resignation once submitted shall not be withdrawn by the employee without the consent of the appointing authority.

12.03 **Reduction in Force:** (deleted - see current collective bargaining agreement)

12.04 **Suspension:**

a. The appointing authority or his authorized representative may suspend an employee without pay for disciplinary reasons for a period of up to ten workdays.. Notice of suspension shall be in writing or shall be given personally by the appointing authority or his authorized representative and confirmed in writing within 24 hours.

b. Temporary Relief from Duty may be changed to suspension without pay or other disciplinary action for cause.

12.041 **Temporary Relief from Duty:** An appointing authority may relieve employees from duty temporarily with pay for a period of up to 30 workdays to permit the appointing authority to investigate or make inquiries into charges and allegations concerning the employee, or if in the judgement of the appointing authority the employee's continued presence at work during the period of investigation is detrimental to the best interest of the State, the public, the ability of the office to perform its work in the most efficient manner possible, or well being or morale of persons under his care. The period of

Temporary Relief from Duty may be extended by the appointing authority, with the concurrence of the Commissioner of Personnel.

12.05 **Dismissal**: (deleted - see current collective bargaining agreement)

12.051 Employees serving an original probationary period may be dismissed immediately without prior notice or pay in lieu of notice.

12.052 Employees whose duties require them to hold an operator's license issued by the Vermont Motor Vehicle Department and who become unable to perform their assigned duties as a result of losing their driving privileges because of a violation may be suspended without pay, transferred, or demoted to another position within the agency, or dismissed if no other position for which they are qualified is available.

12.06 **Like Penalties for Like Offenses**: In dismissals and suspensions for cause like penalties shall be imposed for like offenses.

12.07 **Restoration in Previous Class:** A permanent-status employee separated without prejudice may for a period of two years be restored to a vacant position in the class formerly held or to a vacant position of another class assigned to the same or lower pay scale, provided that he is eligible and qualified for the position.

12.08 **Re-employment:** (deleted - see current collective bargaining agreement)

12.09 **Reinstatement to a Register:** An employee with permanent status in his class who voluntarily separates from an agency without prejudice shall remain eligible for reinstatement for a period of two years to the register for the class of position formerly held or to another appropriate register.

CHAPTER 13 - PERFORMANCE EVALUATIONS

13.01 **Procedure:** Each agency shall evaluate the performance of each employee at the end of the probationary period and any extension thereof, at the time of the annual performance review, at such other times as is necessary, and upon separation from the agency.

13.011 The immediate supervisor shall rate those employees under his supervision on a prescribed form in accordance with procedures established by the Personnel Board.

13.012 The rating of the immediate supervisor shall be reviewed by at least one higher level of supervision within the agency, except where the agency head is the immediate supervisor.

13.013 All performance evaluation reports shall be subject to the approval of the appointing authority or his designated representative.

13.014 Employees shall be notified of their performance evaluation by their supervisors. One copy of the rating form shall be provided to the employee and one copy shall be retained by the agency. The immediate supervisor shall discuss the rating with the employee, calling attention to particular areas of performance and, when necessary, pointing out specific ways in which performance may be improved. The employee copy of the rating shall constitute official notice to the employee of his rating.

13.015 Ratings shall be based upon the following standards:*

(a) Outstanding - Performance which substantially exceeds standards of performance for the position and State service.

(b) Fully Satisfactory - Performance which consistently meets or occasionally exceeds standards of performance for the position and State service.

(c) Adequate - Performance which, although acceptable, may not fully and consistently meet the standards of performance for the position and State service.

(d) Marginal - Performance which frequently does not meet standards of performance for the position and State service.

(e) Unsatisfactory - Performance which frequently does not meet standards of performance for the position and State service.

13.016 An employee who disagrees with a performance evaluation report or a salary adjustment granted as a result of an annual performance evaluation may seek redress through the grievance procedure.

13.02 **Use of Performance Evaluation Reports:** Performance evaluation reports shall be used:

13.021 At the time of scheduled completion of probationary periods, traineeships, or warning periods.

13.022 In conducting the annual performance review.

13.023 In determining when special salary recognition should be given within a review period as provided by sections 6.0511, 6.052, and 6.062.

13.024 In filling vacancies in a department in accordance with sections 11.02, 11.02, 11.03, and 11.04.

13.025 In determining when a warning period is to be imposed to improve employee performance and when failure to show such improvement will result in demotion, intra-departmental transfer or dismissal.

13.026 (deleted - see current collective bargaining agreement; related to Reduction in Force)

13.027 On the separation of an employee from a position in State service.

13.028 At any other time deemed proper and necessary.

* These definitions have been replaced by those on the following pages.

June 1, 1979

Vermont Department of Personnel
DEFINITIONS OF EMPLOYEE RATING CATEGORIES

1. **Unsatisfactory** - Performance which falls significantly, even prohibitively, below position and departmental standards. Although certain job requirements may be performed at a satisfactory level, they are so outweighed by problem areas as to virtually preclude continued employment. Demands upon a supervisor's time may be totally unreasonable; efforts to encourage and/or achieve significant performance improvement are usually unproductive. Such rating underscores the magnitude of the gap between performance needs and performance rendered. Imposition at the close of a warning period signified failure to make sufficient improvement during that period and results in dismissal.

2. **Inconsistently meets job requirements/standards** - Performance which is noticeably deficient with respect to particular job requirements or during certain periods of time. Although other aspects of the job may be performed in a satisfactory manner, improvement in deficient areas is necessary. This level of performance is unacceptable and cannot be tolerated for a sustained period of time; demotion or dismissal will result from continued performance at this level.

3. **Consistently meets job requirements/standards** - Solid, competent performance which meets performance expectations. Assignments are typically completed as required. Performance slightly above or below position standards may appear from time to time or in a particular duty area but is not a dominant characteristic of total performance. The day-in, day-out result of such performance is that the job gets done in a timely and effective manner. The employee so rated is "doing the job" for which the position exists.

4. **Frequently exceeds job requirements/standards -** Superior performance in all significant functions of the job. The employee frequently displays considerable initiative and self-direction and usually completes assignments at a level above expectation and/or ahead of schedule. Performance errors, if they occur, are very infrequent and minor. This category is best characterized as high quality performance which always meets and frequently exceeds standards of the position.

5. **Consistently and substantially exceeds job requirements/standards** - Performance which is exemplary in all major aspects of position requirements. The employee so rated is readily perceived as exceptionally competent by supervisors, colleagues and subordinates alike. Such performance is the epitome of sustained excellence significantly above and beyond position criteria.

CHAPTER 14 - HOURS OF SERVICE, OVERTIME, HOLIDAYS AND LEAVES OF ABSENCE

(deleted - see current collective bargaining agreement and appropriate Agency of Administration bulletins)

CHAPTER 15 - GRIEVANCE PROCEDURE

(deleted - see current collective bargaining agreement and 3 VSA 926, 928, and 1001)

CHAPTER 16 - APPEAL

(deleted - see current collective bargaining agreement and 3 VSA 926, 928, and 1001)

CHAPTER 17 - DELEGATION OF AUTHORITY

17.01 Approval by any officer to whom the Governor has delegated the particular duty of approval in accordance with 3 V.S.A. 10 shall satisfy the requirements of approval by the Governor or his authorized representative wherever such requirement is found in these rules.

17.02 The delegation of a particular function shall not prevent the Board from acting in a case thereunder, and in any such instance, the delegation shall be of no effect.*

* As a result of reorganization, the Personnel Board is no longer a rule- or decision-making body and remains in an advisory capacity only.

STATE OF VERMONT

CLASSIFIED SERVICE COMPENSATION PROVISIONS

Effective July 1, 1979, the compensation provisions relative to completion of original probationary period, promotion, upward reallocation and upward reassignment will be as follows:

a. Upon completion of an original probationary period, an employee whose base weekly salary is less than the end-of-probation rate for his pay scale will receive a salary increase to that end-of -probation rate.

b. Upon promotion from one position to another, a permanent-status or limited-status employee will receive a salary increase of 8% or to the end-of-probation rate of the new pay scale, whichever is greater, subject to the maximum of that pay scale. No increase will be granted upon completion of the promotional probationary period.

c. Upon upward reallocation of his position, a permanent-status or limited-status employee will receive a salary increase of 8% or the end-of-probation rate of the new pay scale, whichever is greater, subject to the maximum of that pay scale. No increase will be granted upon completion of any probationary period required as a result of upward reallocation. This provision does not apply to upward reallocation of position from the class Secretary/Clerk Trainee.

d. Upon automatic reallocation of his position from a trainee or entry level to the full level of a class as authorized in a limited number of occupational series (including, but not limited to, Mental Retardation Aide A to Mental Retardation Aide B, Probation & Parole Officer Trainee to Probation & Parole Officer), a permanent-status or limited-status employee will receive a salary increase of 8% or to the end-of-probation rate of the higher pay scale, whichever is greater, subject to the maximum of that pay scale. This provision does not apply to upward reallocation of a position from the class Secretary/Clerk Trainee. When a position is reallocated under this provision, the incumbent will not be required to serve a probationary period at the higher level.

e. Upon reallocation of his position from the class Secretary/Clerk Trainee to the full level class for that position, a permanent-status or limited-status employee will receive a salary increase to the end-of-probation rate of the higher pay scale. When a position is reallocated under this provision, the incumbent will not be required to serve a probationary period at the higher level.

f. When a class is reassigned to a higher pay scale, a permanent-status or limited-status employee occupying a position in that class will receive a salary increase of 8% or to the end-of-probation rate of the new pay scale, whichever is greater, subject to the maximum of that pay scale.

(From 'Guidelines for Implementation' (June 1979) for Article XXIV of the collective bargaining agreement effective July 1, 1979 to June 30, 1981.)

Section 3

EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION

Number 3.0

Effective Date: March 1, 1996

Subject: EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION

*** Supersedes Policy Dated: October 1, 1993 ***

Applicable To: All classified employees, as well as exempt, appointed, and temporary, and applicants for employment with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE & POLICY STATEMENT

The State of Vermont is an equal opportunity employer and is committed to offering equal employment opportunities in accordance with Title VII of the Civil Rights Act of 1964 and its amendments. The State's personnel policies and practices prohibit discrimination on the basis of race, color, religion, ancestry, national origin, sex, sexual orientation (as provided by 21 V.S.A. .495), place of birth, age, or physical or mental condition (a person with a qualifying disability) in all employment practices including, but not limited to: recruitment, hiring, promotion, demotion or transfer; layoff or termination; rates of pay and other forms of compensation; selection for training; agency sponsored social and recreational events; and all other terms, privileges, and conditions of employment.

The State of Vermont is committed to non-discrimination in employment and is strongly committed to an aggressive affirmative action program to overcome any manifest imbalance in the work force based on gender, race or disability.

Affirmative Action is synonymous with sound personnel management. Affirmative Action is a step beyond equal opportunity and non-discrimination. With Affirmative Action comes a continued commitment to identify obstacles to the employment and career advancement opportunities afforded to employees, and to work toward removing those obstacles.

With this in mind, the following policy is set in place:

1. The State will take appropriate affirmative action in all personnel actions and conditions of employment involving women, minorities and individuals with disabilities where a demonstrated imbalance exists within job groups or in the case of top management, within Equal Employment Opportunity (EEO) categories, consistent with State Affirmative Action Plans and Policies.
2. The State will include, as appropriate affirmative action, efforts to recruit, select, train and promote women, minorities and individuals with disabilities.
3. Compensation, benefits, job assignments, layoffs, employee development opportunities and discipline shall be administered without bias to race, color, religion, ancestry, national origin, gender, sexual orientation, place of birth, age, or disability.

Supervisory and management personnel are responsible and accountable for the implementation of the Affirmative Action Plan, including efforts to achieve both numerical and programmatic goals. Supervisory and management personnel shall be held accountable for their performance with regard to equal employment opportunity and affirmative action.

PROCEDURES

Executive Order No. 06-93 appointed the Commissioner of Personnel (or his or her designee), as the Equal Employment Officer for the State of Vermont. Under the guidance of the Commissioner of Personnel, the State EEO officer is responsible for developing, implementing and monitoring an Affirmative Action Program for the State of Vermont. This plan will focus on Statewide policies and procedures and will act as a guideline for the establishment of agency/department-specific Affirmative Action Plans.

Each agency/department will:

- Appoint an EEO officer and immediately notify the State EEO Officer of any change in that appointment.
- Work with the State EEO Officer to implement and maintain an Affirmative Action Program to remedy past or present discrimination.
- Work with the State affirmative action officer to set goals and timetables, establish policies and procedures, and implement corrective action plans where appropriate.

Agency/department Affirmative Action Programs will include the following:

- Development and dissemination of policy.
- Utilization analysis and identification of problem areas, goals and time tables.
- Action-oriented programs.
- Internal monitoring, audit and reporting systems.

The State EEO Officer will also be responsible for auditing agency/department activities to ensure compliance with stated goals and objectives and for reporting the results of

agency/department efforts. The State EEO Officer will submit an Annual Report to the Governor and the Governor's Council on Affirmative Action, by January 31st of each year.

It is the responsibility of all agency secretaries, department heads, and division directors, to ensure compliance with this policy. Your continued cooperation and support in this Affirmative Action Program is essential to achieving this important goal.

SEXUAL HARASSMENT

Number 3.1

Effective Date: March 1, 1996

Subject: SEXUAL HARASSMENT

***supersedes Policy Dated: November 1, 1993

Applicable To: All classified employees, as well as exempt, appointed, and temporary, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The State of Vermont is opposed to and prohibits without qualification the harassment of anyone on the basis of gender.

Sexual harassment violates an individual's basic civil rights, undermines the integrity of the workplace, and adversely affects workers and clients whether or not they are direct subjects of harassment. Sexual harassment is a form of discrimination on the basis of sex and is, therefore, prohibited in the work place by both state and federal law as well as the collective bargaining agreements between the State of Vermont and the Vermont State Employees' Association, Inc. It is also unlawful to retaliate against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of sexual harassment.

All employees, including but not limited to staff, supervisors, managers, and appointing authorities, are expected to comply with this policy and take appropriate measures to ensure that sexual harassment does not occur. Disciplinary action, up to and including dismissal, will be taken against any employee who engages in sexual harassment or who otherwise violates this policy.

In addition, every manager and supervisor within the State of Vermont is responsible for providing a work place free from sexual harassment. This duty includes informing and discussing this policy with all employees; ensuring that employees know they are not required to endure sexual harassment; that sexual harassment will not be allowed; that this policy will be enforced; and that charges of sexual harassment will be impartially and immediately investigated. Managers are responsible for ensuring that all new employees receive a copy of this policy; for posting this policy and a poster in prominent

and accessible locations in the work place; and ensuring that employees are provided with gender-relations training. Any manager or supervisor who does not.deal with sexual harassment complaints consistent with the terms of this policy may be subject to disciplinary action.

DEFINITION OF SEXUAL HARASSMENT:

Sexual harassment is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

a) submission to such conduct is made either explicitly or implicitly a term or condition of employment; or

b) submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that individual; or

c) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or of creating an intimidating, hostile, or offensive work environment.

PROHIBITED CONDUCT:

Sexual harassment can be either verbal, physical, auditory, or visual. It can be either subtle or overt. Sexual harassment refers to behavior that is not only unwelcome, but which can also be personally offensive, fails to respect the rights of others, lowers morale and interferes with work effectiveness, or violates a person's sense of well-being.

Both men and women can be the victims of sexual harassment and it can occur in situations where one person has authority (or the appearance of authority) over another, and can also occur between equals.

Managers, supervisors, and employees with the appearance of authority shall not threaten or insinuate, either explicitly or implicitly, that an employee's submission to or rejection of sexual harassment will in any way affect the employee's employment, evaluations, wages, advancement, assigned duties, shifts, or any other condition of employment or career development. Harassment by co-workers is also unlawful and prohibited both by applicable federal and state laws and the collective bargaining agreements, even though the loss to the victim may not involve the tangible benefits outlined above.

Examples of other forms of prohibited sexual harassment include, but are not limited to the following, when such acts or behavior come within one of the above definitions:

> **Verbal:** Sexual innuendos, suggestive comments, jokes of a sexual nature, sexual propositions, threats, unwelcome sexual flirtations, persistent requests for

dates, degrading words used to describe an individual, other verbal comments of a sexual nature, and graphic commentaries about an individual's body.
Non-Verbal: Sexually suggestive or offensive objects or pictures, written comments, suggestive or insulting sounds, leering, whistling, obscene gestures.
Physical: Unwanted physical contact, which may include touching, pinching or brushing the body, coerced sexual intercourse, and assault.

REPORTING & RESOLUTION OF COMPLAINTS:*

The State, through this policy, commits itself to quick and effective actions to ensure that sexual harassment does not occur or persist. However, the fulfillment of that commitment will in large part depend on the willingness of employees to report prohibited behavior. A timely response to sexual harassment is essential to protect victims from further unwelcome behavior. It also ensures that the person responsible for objectionable behavior understands its impact on others. A timely report provides the best opportunity for the employer to expeditiously and effectively address the matter with the least possible adverse impact on all parties concerned.

Therefore, all employees should report any incidents of sexual harassment they experience, witness, or know of. Employees are also encouraged, *but not required*, to identify objectionable actions to those responsible for them, and to try to resolve issues informally.

The following process will allow employees to freely report incidents of sexual harassment, free from threats of reprisal, and will protect the rights of all parties involved.

* These Reporting and Resolution of Complaints procedures may be expanded upon by individual departments and agencies. Any specific departmental policies and procedures must first be reviewed and approved by the Department of Personnel.

TO FILE A COMPLAINT:

1. Any employee who believes (s)he has been the subject of sexual harassment shall report the alleged act(s) as soon as possible to any one of the following:

    1. the immediate supervisor;
    2. any departmental management staff;
    3. any departmental personnel officer;
    4. any departmental Equal Employment Opportunity (EEO) Officer
    5. any member of the Department of Personnel Employee Relations staff, 110 State Street, Montpelier, VT, 802-828-3454.

NOTE: Any employee may consult with the VSEA to request its assistance. (S)he may also file a complaint of sexual harassment in accordance with the grievance procedures prescribed by the contract. The employer shall ensure that complainants and respondents are advised of their right to VSEA representation under the circumstances required by the contract.

TO PROCESS A COMPLAINT:

1. All complaints received by supervisors, managers, EEO officers, or Department of Personnel staff will be referred immediately to the departmental personnel officer. The personnel officer will coordinate with the appointing authority to ensure that a timely and complete review of the complaint is made. A report of any investigation will first be reviewed with the Department of Personnel Employee Relations Staff, and then a copy of the final report will be provided to the appointing authority. The appointing authority will identify and take steps to promptly remedy the harassment and prevent its recurrence.
2. Within five (5) work days, the appointing authority shall issue a written response to the complainant acknowledging the complaint and providing notice, if applicable, that any prohibited activity is expected to cease. An investigation will be done promptly and a written response will be provided to the complainant. The investigation and response will normally be completed within thirty (30) days.
3. Complainants should be notified that confidentiality cannot be guaranteed if a complaint results in a grievance or other litigation of the complainant.
4. The Department of Personnel and appointing authorities shall ensure that an investigation is conducted when any instance of sexual harassment comes to their attention, even in the absence of a complaint.
5. If the appointing authority or any member of the agency/department personnel unit is named in the complaint, the complainant or his or her representative must bring the complaint to the attention of either the Secretary of Administration or the Commissioner of Personnel to determine the appropriate personnel to be responsible for investigating the charge.
6. Any intimidation, harassment, or interference for filing a complaint or assisting in an investigation and/or intentionally filing a false complaint of sexual harassment will be subject to appropriate discipline, up to and including dismissal.

   The use of this procedure does not preclude any victim of sexual harassment from pursuing any other legal remedy. To explore other remedies, employees may also contact the following:

Equal Employment Opportunity Commission
1 Congress Street
Boston, MA 02114

617-565-3200 (Voice/TDD)
Complaints must be filed within 300 days of the adverse action.
Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609-1001
802-828-3171 (Voice/TDD)
Complaints should be filed within 300 days of the adverse action.
Vermont Human Rights Commission
135 State Street, Drawer 33
Montpelier, VT 05633-6301
802-828-2480 (Voice/TDD)
Complaints must be filed within 360 days of the adverse action.
Vermont State Employees' Association, Inc.
155 State Street
Montpelier, VT 05601
802-223-5247

REASONABLE ACCOMMODATION

Number 3.2

Effective Date: March 1, 1996

Subject: REASONABLE ACCOMMODATION

Supersedes Policy Dated September 30, 1992

Applicable To: All classified employees, as well as exempt, appointed, and temporary, and applicants for employment with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The State of Vermont endorses the mandate of the Americans with Disabilities Act of 1990 (ADA) which prohibits employment discrimination on the basis of disability.

Consistent with the ADA and Vermont's Fair Employment Practices Act, it is the policy of the State of Vermont, upon request, to provide reasonable accommodation to the known physical or mental limitations of an otherwise qualified employee or applicant with a disability, unless such accommodation would cause an undue hardship. The policy regarding requests for reasonable accommodation applies to all aspects of employment, including the application process.

DEFINITIONS

DISABILITY - An individual with: (1) a physical or mental impairment that substantially limits one or more of the major life activities of such individual (i.e. caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working); (2) a record of such an impairment; or (3) being regarded as having such an impairment.

ESSENTIAL FUNCTIONS - The fundamental job duties of the employment position that an individual with a disability holds or desires.

QUALIFIED INDIVIDUAL WITH A DISABILITY - An individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

REASONABLE ACCOMMODATION - Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position the person desires; modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as they are enjoyed by other similarly situated employees without disabilities. Reasonable accommodation may include, but is not limited to: making existing facilities used by employees readily accessible to and usable by individuals with disabilities; job restructuring; part-time or modified work schedules; reassignment to a vacant position; equipment or devices; adjustment or modification of examination, training materials or policies; and the provision of qualified readers or interpreters.

UNDUE HARDSHIP - Any accommodation that would be unduly costly, extensive, substantial or disruptive, or that would alter the nature or operation of the business.

DIRECT THREAT - A significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.

REASONABLE ACCOMMODATION COMMITTEE (RAC) - A committee established to review and monitor the provisions of this policy. The members of the committee shall be selected by the Commissioner of Personnel. The RAC may be contacted through the Department of Personnel, Employee Relations Division, 802-828-3454.

GENERAL

Applicants or employees cannot be asked whether they have a disability, or to describe the nature or severity of their disability. An applicant can only be asked: "Will you be able to perform all the essential functions of this position with or without a reasonable accommodation"? (See Number 4.11, Interviewing and Reference Checking.) Employment opportunities shall not be denied to anyone based solely on the need to provide reasonable accommodation.

REASONABLE ACCOMMODATION PROCEDURES

Accommodation Request Initiated by an Employee or Applicant

1. An employee or applicant shall make a written request to the immediate supervisor using the Request for Reasonable Accommodation form to include: (1) name, department/agency, job title, address, phone number; (2) description of functional limitations for which accommodation(s) are being requested; and (3) description of any potential reasonable accommodation(s) that would overcome the limitations (See Attachment B).
2. In cases of routine requests for accommodation in the interview process which cost less than $500 (i.e. for sign language interpreters), it is generally not

necessary to use the Request for Reasonable Accommodation form or review process described below.

Department Review

1. After receiving an accommodation request, the supervisor shall notify the appointing authority and contact the departmental personnel officer and, if necessary, other departmental resources for technical assistance.
2. If necessary, medical verification of the disability may be requested from the individual. Any information supplied pursuant to the request for medical verification shall be treated as confidential, to the extent required by law, and shall be kept separate from personnel files.
3. The supervisor and departmental personnel officer, shall review the accommodation request to:
    - determine whether the individual is a qualified individual with a disability covered by this policy;
    - analyze the job description for essential functions;
    - review medical verification, if applicable;
    - review the individual's current limitations;
    - review the individual's suggested reasonable accommodation(s);
    - investigate other possible accommodations;
    - determine if the individual can have the disability reasonably accommodated without undue hardship.
4. If there is no reasonable accommodation which will allow the employee to perform the essential functions of his or her present job (i.e. if steps 1 - 3 above have been exhausted), then the Accommodation through Reclassification procedures must be followed (See Attachment A).

Department Response

1. The supervisor shall be responsible for completing the department response section of the Request for Reasonable Accommodation form, to include a description of the accommodation proposed or provided, or a description of why an accommodation request was not granted. The original form must be submitted to the Chair of the RAC, with copies forwarded to the requesting individual, the department personnel officer, and the appointing authority. Whenever possible, an initial response will be communicated within ten (10) work days of receipt of the accommodation request.
2. As an employer, the State is not obligated to provide the "best" accommodation possible, as long as the accommodation offered is sufficient to enable the individual to perform the essential functions of the job.
3. In the following situations, an accommodation request initiated by an individual must be referred to the RAC:
    - If the cost of the proposed accommodation exceeds five-hundred dollars ($500); has an impact on the duties of any other position; or has an impact on the workload or schedule of another employee.

- If there is a dispute between the department and the individual requesting the accommodation as to the accommodation to be provided.
- If, for whatever reason, it is determined that an accommodation request cannot be granted.

4. Notwithstanding the above, nothing shall preclude a department from seeking an advisory opinion from the RAC by calling the Department of Personnel Employee Relations Division at 802-828-3454.

Reasonable Accommodation Committee Review

5. After receiving the completed Request for Reasonable Accommodation form, the RAC will conduct its review to:
    - analyze the job description for essential functions;
    - review medical verification if applicable;
    - review the individual's current limitations;
    - review the individual's suggested reasonable accommodation(s);
    - investigate other accommodations;
    - determine if the disability can be reasonably accommodated without undue hardship.
6. If deemed necessary by the Chair of the RAC, expert opinion will be solicited to determine if there is an appropriate accommodation under the circumstances which is possible.
7. The RAC will attempt to issue its decision within ten (10) work days of receipt of a Request for Reasonable Accommodation form. The RAC will communicate its decision in writing to the requesting individual and the appointing authority. The RAC will set forth the rationale for its decision.
8. The requesting individual is not required to accept an accommodation recommended by the RAC. However, if the individual rejects a recommended reasonable accommodation that would enable the individual to perform the essential functions of the position held or desired, and cannot as a result of that rejection, perform the essential functions of the job, the individual will not be considered a qualified individual with a disability.
9. Any appointing authority or designee dissatisfied with a decision of the RAC may request, by letter to the RAC Chair, an opportunity to discuss the committee's decision within ten (10) days of receipt of the decision.

Direct Threat

10. As an employer, the State may refuse to hire an applicant, or retain an employee who poses a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or sufficiently reduced by reasonable accommodation.
11. If an individual is believed to pose a direct threat, the appointing authority or designee will complete a Request for Reasonable Accommodation form and forward it to the RAC for a decision. In cases of direct threat, the RAC will

endeavor to render and communicate its decision within five (5) workdays of receipt of a Reasonable Accommodation Report.

12. Determination will be made on the individual's present ability to safely perform the essential functions of the job. Factors to be considered include: (1) the duration of the risk; (2) the nature and severity of the potential harm; (3) the likelihood that the potential harm will occur; and (4) the imminence of the potential harm.
13. An employee may be temporarily relieved from duty with pay until the RAC makes a decision.

Remedies

14. An employee aggrieved by a decision of the RAC may grieve the decision pursuant to the ADA Grievance Procedures (See Number 10.2).
15. Any applicant who feels (s)he has been discriminated against as an applicant for employment with the State of Vermont may file a complaint through the ADA Grievance Procedures (See Number 10.2).
16. Nothing herein shall preclude any aggrieved individual from pursuing any other legal remedy. To explore other remedies, individuals may also contact the following:

    Human Rights Commission 135 State Street, Drawer 33 Montpelier, VT 05633-1201 802-828-2480 (Voice/TDD)
    VT State Employees' Association, Inc. 155 State Street, P.O. Box 518 Montpelier, VT 05601 802-223-5247

ATTACHMENT A
ACCOMMODATION THROUGH RECLASSIFICATION

INTRODUCTION

In compliance with the Americans with Disabilities Act of 1990 (ADA), these procedures will expand the State's Reasonable Accommodation Policy by providing State employees Statewide access to positions they are able to perform at the same or lower pay grades, in lieu of Reduction in Force (RIF) when the employee is disabled and incapable of performing in his or her current job.

This policy **does no**t apply to temporary and exempt employees.

PROCEDURES

17. Reasonable accommodation alternatives in an employee's current job must be exhausted before reassignment to the duties of a different position is considered. Such an assignment is appropriately designated as a reasonable accommodation only when it is determined that no reasonable accommodation

is available in the current job, as determined by the Reasonable Accommodation Committee (RAC). Any dispute over the reassignment should be referred to the RAC in accord with established procedures.

18. When there is no other reasonable accommodation available within the employee's current position, the personnel officer must determine if there is another position **at the same pay** grade which management intends to fill and for which the employee meets the minimum qualifications and is able to perform, with or without reasonable accommodation. The personnel officer must look first within the employing department, and second within the employing agency,

19. If there **is** such a position **at the same pay grade** within the employee's geographic area [i.e., within a thirty-five (35) road-mile radius of the regular duty station] which the employee is able to perform with or without reasonable accommodation, the employee **shall be required to perform the duties of the position** and will be **reclassified** accordingly. No further reasonable accommodation steps are required after that point, except those accommodations which may be necessary to permit the employee to perform the new duties. The right of management to require an employee to perform such duties shall be superior to the rights of any current classified State employee or current or former employee on the RIF list. This reassignment shall normally be completed **within ten (10) calendar days** of the RAC determination that the employee can no longer perform the duties of his or her current position.

20. If there is **no position at the same pay grade** in the employing Agency under sections 2 & 3, above, the appointing authority shall, as soon as practicable, notify the Commissioner of Personnel and the RAC Chair of their need to determine whether there are any positions within the remainder of the classified service for which the employee is qualified and is able to perform with or without reasonable accommodation. The employer shall provide the RAC Chair with all relevant documentation including, at least: the employee's current job description (Per-10); a list of the employing agency's current vacant positions; pertinent medical reports; and medical end results for any applicable Workers' Compensation case.

21. When the RAC Chair determines that the employing Agency has complied with all applicable reasonable accommodation steps, the employee shall be placed in a **Pre- Separation Accommodation through Reclassification** status. The employee shall be notified by the RAC Chair that (s)he has been placed in such status, and that the employee has the responsibility to meet with the Department of Personnel's Recruitment Division to establish his or her parameters for assignment to a position. This process allows the employee to inform the Department of Personnel what work (s)he is willing to do and where. The Accommodation through Reclassification status shall last for **twenty (20) calendar days** and shall begin upon date of receipt of notice.

22. An employee in an Accommodation through Reclassification status shall have, after establishing his or her parameters with the Department of Personnel, the right to be assigned to the duties of positions that management intends to fill that fall within these parameters and which are at the same or lower pay grade for which (s)he meets the minimum qualifications, and which (s)he is capable of

performing with or without reasonable accommodation. That right shall be superior to the rights of any current classified State employees or current or former State employees on the RIF list. The employee shall be assigned to the duties of a position for which (s)he is eligible. Refusal of any one such assignment, or no response within five (5) workdays of notice, shall terminate any and all Accommodation through Reclassification status rights, and the employee will be considered to have resigned his or her position and will be separated accordingly. Any questions as to whether an employee is qualified must be resolved by the RAC.

NOTE: A position will not be considered "vacant" in any agency/department until the Accommodation through Reclassification status has been cleared. Positions will not be RIF-cleared if there is an employee eligible for the position.

23. If there is no position available to the employee within the twenty (20) calendar day period of the Accommodation through Reclassification status, the appointing authority shall at once initiate a disability RIF for the employee in accord with the Injury on the Job Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. After that point RIF rehire priority will be established in accordance with applicable contractual RIF procedures.

24. Normal contract or regulatory provisions affecting status, seniority, salary, and benefits shall be applicable to any changes effected. In these instances, an employee's salary will be determined by the RIF provisions of the contract.

DISCRIMINATION COMPLAINTS

Number 3.3

Effective Date: July 1, 1999

Subject: **DISCRIMINATION COMPLAINTS**

Applicable To: All classified employees, as well as exempt, appointed, and temporary, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The State of Vermont is opposed to and contractually bound to respond to discrimination against employees on the basis of race, color, religion, creed, ancestry, sex, marital status, age, national origin, disability, sexual orientation, membership or non-membership in the V.S.E.A., and any other factor that is prohibited by law. The purpose of this policy is to establish protocols for reporting and investigating allegations of discrimination. Sexual harassment is covered separately in Policy 3.1. Reasonable accommodation for disability and the Americans With Disability Act are covered by Policy 3.2.

Many of the above-listed forms of discrimination are made unlawful by state and federal law. All are prohibited by the collective bargaining agreements between the State of Vermont and the Vermont State Employees' Association, Inc. In addition to the prohibitions on discrimination, it is unlawful to retaliate against an employee for filing a complaint of discrimination. Allegations of such retaliation will be investigated in the same manner as reports of discrimination. Discipline for making a complaint of discrimination that the complainant knows to be false is not retaliation.

<u>All</u> <u>employees</u>, including but not limited to non-supervisory staff, supervisors, managers, and appointing authorities, are expected to comply with this policy and take appropriate measures to ensure that discrimination does not occur. Disciplinary action, up to and including dismissal, may be taken against any employee who engages in discrimination or who otherwise violates this policy, applicable state and federal laws, or the collective bargaining agreements.

In addition, every manager and supervisor within the State of Vermont is responsible for providing a work place free from discrimination. This duty includes disseminating this policy so that all employees are aware that:

they are not required to endure discrimination,

discrimination will not be allowed;

this policy, the collective bargaining agreement prohibitions, and state and federal discrimination laws will be enforced; and

charges of discrimination will be impartially and immediately investigated.

Managers are responsible for ensuring that all new employees receive a copy of this policy; for posting this policy in prominent and accessible locations in the work place; and striving to provide employees with diversity training. Any manager or supervisor who does not deal with discrimination complaints consistent with the terms of this policy may be subject to disciplinary action.

EXPLANATION OF TERMS USED

Agency - Throughout this policy, the term agency is intended to refer to all categories of State of Vermont Executive Branch government units. The term agency head refers to the appointed or elected head of each unit. This includes agencies, departments, offices of elected officials such as the Attorney General and Treasurer, and independent boards and commissions.

Appointing Authority - As used in this policy, the term appointing authority refers to the government official who is charged with making significant decisions regarding employees, to include hiring and discipline. The appointing authority may be the appointed or elected head of the government unit, or the official delegated by the appointed or elected official to make such decisions.

Discrimination - As used in this policy, the term discrimination is intended to include all forms of mistreatment or denial of privileges in the workplace based upon impermissible factors as established by state or federal law, applicable regulations, or the collective bargaining agreements between the State of Vermont and the Vermont State Employees' Association, Inc.

Victim - Throughout this policy, the term victim means the actual or alleged target of the discriminatory behavior that is being investigated. It is not meant to exclude the victim identified in a claim of discrimination that is not substantiated by investigation. The term victim is not interchangeable with the term complainant because not all victims complain, nor are all complainants victims.

Complainant - An individual who brings allegations of discrimination to the attention of state officials.

REPORTING & RESOLUTION OF COMPLAINTS

The State, through this policy, commits itself to take necessary action to deter discrimination in the workplace. However, the fulfillment of this commitment will, in large part, depend on the willingness of employees to report prohibited behavior. A timely response to discrimination is essential to protect victims from further unwelcome behavior. It also ensures that the person responsible for objectionable behavior understands its impact on others. A timely report provides the best opportunity for the employer to expeditiously and effectively address the matter with the least possible adverse impact on all parties concerned.

Therefore, all employees should report any incidents of discrimination, based upon any of the prohibited factors, that they experience, witness, or of which they are aware. In some instances, such as where discriminatory or offensive behavior may be unintentional, informal and direct objection can be the best way to remedy a problem. In such instances, employees are encouraged, but not required, to identify objectionable actions to those who commit them, and to try to resolve issues informally.

The following process allows employees to freely report incidents of discrimination, free from threats of reprisal, and protects the rights of all parties involved.

These Reporting and Resolution of Complaints procedures may be expanded upon by individual departments and agencies. Any specific departmental policies and procedures must first be reviewed and approved by the Department of Personnel, Employee Relations Division.

TO FILE A COMPLAINT:

1. Any employee who believes (s)he has been the subject of discrimination shall report the alleged act(s) as soon as possible to any one of the following:

an immediate supervisor;

any agency management staff;

any agency personnel officer (agency personnel officers act as agency Equal Employment Opportunity (EEO) Officers); or

any member of the Department of Personnel Employee Relations staff, 110 State Street, Montpelier, VT 05620, 802-828-3454.

NOTE: Any employee may consult with the VSEA to request its assistance. (S)he may also file a complaint of discrimination in accordance with the grievance procedures prescribed by the contract. The employer shall ensure that complainants and respondents are advised of their right to VSEA representation under the circumstances required by the contract.

2. Employees who witness discriminatory acts are encouraged to report their observations to any of the appropriate state officials identified in this policy.

COMPLAINT PROCESSING PROCEDURE:

1. **Complaints Will Be Promptly Referred To The Appropriate Authority**

All complaints received by a supervisor, manager, EEO or personnel officer, Department of Personnel staff person, or any other state official will be immediately referred to the departmental personnel officer of the employee who is the alleged victim of the discriminatory conduct.

2. **Agencies Will Promptly Respond**

Once a complaint is referred to an agency, the agency personnel officer will notify the appointing authority and the Department of Personnel to ensure timely and complete review of the complaint. The Department of Personnel and appointing authorities shall ensure that an investigation is conducted when any instance of discrimination comes to their attention, even in the absence of a complaint. The steps to be taken upon receipt of a complaint are:

a. Appointment of an Investigator.

The responsibility for determining who will investigate and the scope of the investigation is with the agency head. The appropriate agency head is the official in charge of the agency that employs the victim. If in a single incident there are multiple victims employed by more than one agency, the agencies will coordinate with the Department of Personnel to identify a single responsible appointing authority to conduct the investigation. If the individual accused of discrimination is a state employee not under the supervision of the same agency head as the victim, immediate notice of the allegation will also be made to the agency head of the accused employee. If the complaint is made against the head of an agency, the complaint will be forwarded to the Commissioner of Personnel. The Commissioner of Personnel will inform the Secretary of Administration and the responsible Agency Secretary, in the event that the target of the complaint reports to an Agency Secretary. The Commissioner of Personnel will coordinate a response on behalf of the Secretary of Administration.

The investigator assigned may be an employee from the same agency, another agency, or may be someone hired on a personal services contract to conduct the investigation. The investigator should be appointed in writing and given specific instruction on the scope of the investigation. Where the allegations include claims of serious misconduct that may constitute criminal conduct, the agency head may elect to defer investigation until completion of a criminal investigation, but only after consultation with the Commissioner of Personnel.

b. Notification to Complainant, Victim, and Accused

Within five workdays, the appointing authority shall issue written notices to complainants, victims, and those accused of discriminatory acts.

For a complainant who is not a victim, the notice should acknowledge the complaint and state that the agency is taking action and that any retaliation should be reported to the agency or Department of Personnel.

For a complainant who is a victim, the notice should also state that the State will endeavor to prevent any additional prohibited activity, that an investigation will be done promptly, and that a written response will be provided when the investigation is completed.

If the complainant identifies specific state employees accused of wrong doing, written notices should be provided to such accused employees. For an employee accused of discriminatory conduct, the notice should state: that the employee has been accused of discriminatory behavior; that while no conclusions about allegations will be drawn until completion of the investigation, such behavior is prohibited by law and the collective bargaining agreements; and that employees are subject to discipline, up to and including dismissal, for engaging in such behavior. The notice should also state that retaliation of any type is not tolerated and will be subject to discipline. Where the complaint alleges serious misconduct, the appointing authority should consider relieving the accused employee from duty with pay.

Personnel officers should seek assistance from the Department of Personnel, Employee Relations Division before sending these notices.

2. **Investigation Procedures**

The actions taken by the investigator will vary depending on the nature of the allegations and the resources made available, however, the investigation should be broad enough to comply with the minimum reporting requirements listed in the following paragraph.

Witness Interviews

Investigators must comply with the collective bargaining agreements between the State of Vermont and the Vermont State Employees' Association, Inc. when interviewing employees, especially those employees who are accused of or suspected of wrongdoing. Persons interviewed in the course of the investigation should be informed that statements made to the investigator are not confidential and that while the State's policy is to strictly control distribution of investigative reports, such reports may be released as the result of a public records request or in the course of litigation.

Preserving Evidence

An investigator may find tangible evidence when investigating a complaint of discrimination. Examples include documents used in committing discriminatory acts or that memorialize such acts, and non-documentary evidence such as graffiti on a wall or damaged personal property. Reasonable and prudent measures should be taken to preserve evidence. Where appropriate, photographs should be taken and prints labeled with time and place taken. Fingerprints may be taken from a wide variety of substances, thus, where suggested by the circumstances, evidence should be handled carefully to avoid the loss of existing prints or the addition of others. Investigators should seek the assistance of counsel or other experts whenever necessary.

3. **Contents of Investigation Report**

At a minimum, the report of an investigation into allegations of discrimination will include:

a summary of the allegations and how they were brought to the attention of state officials;

summaries of interviews with any alleged victims;

summaries of interviews of any employees accused of or suspected of wrongdoing;

summaries of interviews of any other witnesses who may possess information relevant to a fair resolution of the complaint; and

any documents or other tangible evidence, or photographs or descriptions of such evidence, as appropriate, along with notation of where such evidence is being held for safekeeping.

In any investigation where there is a disagreement as to any material facts, the investigator will state factual findings that reflect his or her resolution of that disagreement.

4. **Distribution of the Final Report and Notification to Interested Parties**

The final report will be provided to only the appointing authority and the Commissioner of Personnel. The Commissioner of Personnel may elect to provide copies to other state officials. Neither the final report nor the supporting materials will be provided to the victim(s) or employee(s) accused of wrongdoing. The victim will be provided a notice that the investigation is completed and be informed if any allegations are substantiated. The appointing authority will identify and take steps to promptly remedy any discrimination and prevent its recurrence.

The use of this procedure does not preclude any victim of discrimination harassment from pursuing any other legal remedy. To explore other remedies, employees may also contact the following:

Equal Employment Opportunity Commission
1 Congress Street
Boston, MA 02114
617-565-3200 (Voice/TDD)
Complaints must be filed within 300 days of the adverse action.

Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609-1001
802-828-3171 (Voice/TDD)
Complaints should be filed within 300 days of the adverse action.

Vermont Human Rights Commission
135 State Street, Drawer 33
Montpelier, VT 05633-6301
802-828-2480 (Voice/TDD)
Complaints must be filed within 360 days of the adverse action.

Vermont State Employees' Association, Inc.
155 State Street
Montpelier, VT 05601
802-223-5247

Signed by Kathleen C. Hoyt, August 6, 1999

_____
Approved, Secretary of Administration

Section 4

RECRUITMENT AND POSTING OF VACANCIES

Number 4.0

Revised: August 4, 2008

Supersedes Policy 4.0 Dated January 15, 2002

Abolishes Policies: 4.1, 4.2, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.12, 4.13

Subject: **RECRUITMENT AND POSTING OF VACANCIES**

Applicable To: All applicants for employment with the Executive Branch of the State of Vermont. NOTE: Although this policy generally applies to all recruitment, certain aspects of it are specific to recruitment of classified positions only.

Issued By: Department of Human Resources

Approved By: Michael K. Smith, Secretary of Administration

PURPOSE

It is the policy of the State of Vermont to meet its workforce needs through systematic recruitment, selection, and career support programs that identify, attract, and select from the most qualified applicants for State employment, while at the same time encouraging diverse representation at all occupational levels of the workforce. No selection decision shall be made that would constitute unlawful discrimination in violation of state and/or federal law.

The hiring of applicants for classified positions shall be carried out with consideration of the balance of skills needed to maintain the State's ability to meet the demand for services, including the need to plan for future leadership. The State's programs and practices shall foster internal advancement opportunities for current employees, as the State recognizes the value of tenure and experience.

Concurrently, programs and practices should allow for inclusion of applicants from outside the organization who may offer a new source of talent, alternative perspectives, or the latest academic knowledge. This will be accomplished through targeted recruitment efforts that bear a logical and systematic relationship to staffing needs to be met, and afford equal opportunity for all applicants within the limits of these goals.

Through a planned integration of experience, perspective, and vitality, the State will best meet its mission of service to the public.

POLICY STATEMENT

The Department of Human Resources (DHR) is responsible for monitoring the effectiveness of agency/department recruitment and selection procedures in accordance with applicable policies and law. Agencies and departments are responsible for maintaining recruitment and selection data and documentation to support hiring decisions. In addition, agencies and departments must provide information to DHR to prepare reports required by statute.

DEFINITIONS

Classified: includes all positions and categories of employment by the State, except as otherwise provided by law (See 3 V.S.A. §311).

Job Class: a grouping of one or more positions that is sufficiently similar in the duties performed; degree of supervision exercised or received; minimum requirements of training, experience, or skill; and other characteristic. These similarities allow the same title, test of fitness, and pay grade to be applied to each position.

Job Requisition: the details specific to a vacant position that a department wishes to fill which is entered into the Human Capital Management (HCM) database. The job requisition is listed on the DHR website where applicants must apply to individual job requisitions to be considered for the position.

Job Specification: an official document that describes the duties and minimum education and experience qualifications of State jobs.

Mandatory Interview: applicants with disabilities may request mandatory interview status through the DHR Labor Relations Division. Applicants who qualify for this status and who apply for a job requisition must be offered an interview by the hiring authority (see Personnel Policy 3.2 – Reasonable Accommodation, for more information).

Minimum Qualifications: criteria established for the initial screening of job applicants. Minimum qualifications are usually expressed in terms of the nature and amount of formal education, training, work experience, as well as any special requirements such as licenses, certifications, or physical standards. Minimum qualifications are set at a level that provides a reasonable likelihood that a candidate for the job possesses the most important minimum required knowledge, skills, and abilities to adequately perform entry level work in the job.

RIF-Clear: the process by which a vacant classified bargaining unit position is reviewed by the DHR Recruiter to determine whether the position must be offered to someone with mandatory reemployment rights to that vacancy, prior to posting a job requisition.

General Guidelines

4.01 – Posting and Recruiting to fill Job Requisitions

Each classified position to be filled must be posted online on the DHR website in the HCM database and include reference to the position number being filled. This includes all positions for which an agency or department wishes to recruit internally for promotional or transfer opportunities for their employees.

It is up to the agency or department to determine whether the position is to be recruited internal to the agency, internal to State government, or whether external applicants will be considered concurrently with the internal applicants. If a department wants to consider hiring a current temporary employee for a classified vacancy, the job requisition must be posted externally.

The recruitment and selection process shall be consistently applied and non-discriminatory, so that it promotes open and fair competition and provides for the hiring of a diverse workforce. While not required, agencies and departments are strongly encouraged to post exempt and temporary vacancies as job requisitions on the DHR website as well.

4.02 – Scope Conference

A scope conference is a meeting (or teleconference) between the DHR Recruiter, the department HR Administrator, and the hiring manager to discuss the following:

- An overview of the position to be recruited.
- A review of the current minimum qualifications and revision if necessary.
- The level of recruitment needed and advertising options.
- Screening needs and preferred qualifications.
- Timeline for posting the job requisition and delivery of eligible applications.
- Outreach efforts to attract a diverse applicant pool.

The scope conference provides the hiring department an opportunity to streamline and improve the recruitment and screening process and to attract a quality pool of eligible candidates. When a vacancy occurs in a department, a scope conference should be held prior to beginning the recruitment process. Scope conferences provide the Recruiter with more information about the particular job and the specific needs of the hiring manager. This in turn prepares the Recruiter to provide better responses to applicant inquiries. Scope conferences may be conducted in person or via teleconference. There may be times when a scope conference is not necessary. The final decision to conduct a scope conference lies with the DHR Recruiter.

4.03 – Job Requisition Posting Period

All classified position vacancies that a department intends to fill must be posted on the DHR website as a job requisition with for a minimum of ten (10) work days. The DHR Recruiter may extend the closing date beyond the ten days if it is a difficult to fill position. State holidays and weekends do not count as work days for the job requisition posting period.

Closing dates may be extended provided that the DHR Recruitment Division is notified prior to the scheduled closing date. A lack of qualified applicants may justify extending the posting period.

Departments that wish to place an advertisement for a particular job requisition must ensure that the requisition is entered into HCM timely to coincide with the advertising deadlines.

4.04 – Reposting a Job Requisition

Occasionally a job requisition for a position will need to be reposted after the closing date. This happens when a change is made to the minimum qualifications of the job class. It also occurs when there are insufficient qualified candidates for the hiring manager to consider.

Depending upon the circumstances, the Recruiter will determine if the job requisition will be reopened for a specific period of time, or if the original job requisition will be cancelled and a new job requisition posted in its place. If a new job requisition is posted, applicants who applied on the original job requisition must also apply for the new job requisition to be considered for the position.

4.05 – Reemployment for Employees with Recall Rights

Some permanent status employees may have mandatory reemployment rights to vacant classified bargaining unit positions (see the Reemployment Rights Article of the current Collective Bargaining Agreements). Consequently, the position must be "RIF-Cleared" by the DHR Recruitment Services Division prior to beginning the recruitment process. Non-classified, and confidential or managerial classified position vacancies are not required to RIF-Clear.

The hiring manager will be notified in writing by the Recruiter of any applicant(s) with mandatory rehire rights. The hiring manager must contact this applicant within three (3) work days to discuss the position. The hiring manager should provide the applicant with a written offer of employment. No further recruitment efforts will take place if the individual accepts the position. If there is no employee with mandatory reemployment rights, or if the individual(s) with rights declines the position, the recruitment process may begin.

4.06 – Application Form

Responsibility for creation of the employment application rests with the Department of Human Resources. The application must be completed online via the DHR website.

Applicants are encouraged to contact DHR Recruitment Services to discuss/seek assistance or accommodation with the online application process. In some instances an applicant may desire to pursue formal measures to obtain Reasonable Accommodation in accordance with the Americans with Disabilities Act (see Personnel Policy 3.2 – Reasonable Accommodation, for more information).

All applicants who wish to apply for a classified position vacancy with the State of Vermont must complete and submit the online job application. Applicants must select and apply for individual job requisitions that are of interest to them. All pages of the online application must be completed for the application to be considered. In addition, all screening questions must be answered for the application to be considered complete. Applicants who submit only a resume and/or cover letter will not be considered to have submitted a completed application and will be screened out.

The online application requires applicants to read and agree to a statement detailing their responsibility for providing accurate, honest and complete information in response to all questions on the online application. The consequences of any misrepresentation are indicated in the application. A submitted online application constitutes an application signed by the applicant.

For classified positions, hiring managers may not consider applicants who submit resumes or cover letters directly to them in lieu of completing the online application.

Applicants must apply for individual job requisitions prior to the closing date and be found eligible or they may not be considered for that position.

NOTE: If an applicant makes a false statement of material fact, including responses to screening questions, which misrepresent the applicant's qualifications, s/he may be disqualified from each posting for which they have applied.

4.07 – Screening and Eligibility Determination

The DHR Recruitment Services Division is responsible for screening all applications and for the final determination of eligibility for all positions. Eligible applicants are routed to the HR Administrator and/or hiring manager by the DHR Recruiter.

Screening criteria for a job requisition are determined by the Recruiter, with input from the HR Administrator and the hiring manager, based upon the minimum education and experience requirements as outlined in the Job Specification. Additional screening questions may be used for preferred qualifications.

Once the posting period closes, the recruiter screens the applicants. Those applicants who meet the minimum qualifications for the job requisition will have their applications, cover letters and resumes (if applicable) routed to the department for consideration.

Applicants whom the Recruiter finds do not meet the minimum qualifications for the job requisition will not have their applications routed to the department, and may not be considered for the position. Any questions regarding an applicant's eligibility must be directed to the DHR Recruiter assigned to the job requisition.

It is the responsibility of the hiring manager or HR Administrator to verify that the candidate of their choice actually possesses the required minimum education and experience qualifications as outlined in the job specification, as well as the accuracy of data contained in the application prior to making an offer of employment.

4.08 – Performance Examinations

Some State of Vermont job classes require that applicants demonstrate specific skills. Performance exams may be administered with approval and oversight of the DHR Recruitment Services Division.

Typing tests are administered online with scores based on speed and accuracy. Because these tests are not proctored, applicants must certify that they are the actual test taker and understand that their application may be rejected if there is any attempt to falsify individual results.

Typing tests may be retaken one week from the last date the applicant took the test. The score will remain valid as long as the test is active, or until the applicant retakes the test. If an applicant retakes the test, the most recent score will be the one used for determining the applicant's eligibility, even if the previous score was higher.

4.09 – Inactive Applications

If an external applicant does not update his or her application or apply for a job requisition for a period of one year, his or her application may be inactivated. In these instances if the applicant wishes to reapply for a job requisition, he or she will be required to complete a new online job application.

4.10 – Advertising

Advertising is an excellent way to attract applicants and is encouraged by DHR. The decision to advertise is at the discretion of the agency or department where the vacancy occurs. Costs of advertising are borne by the agency or department that places the ad.

The State of Vermont's Coordinated Advertising Program is managed by the Recruitment Services Division. Departments that wish to place advertisements in the Burlington Free Press and/or the Times Argus/Rutland Herald for their job requisitions

must submit ad copy to the Recruitment Services Division staff. Individual ads are consolidated weekly into a single ad that runs in either or both of the newspapers. Placement of job advertisements on Career Builder is also coordinated by DHR.

The State of Vermont standard advertising template is also available at several other Vermont newspapers. Departments may place ads directly with those newspapers; however, advertisements should be reviewed in advance by the DHR Recruitment Services Division.

The State of Vermont Advertising Guide, offers guidance in writing job advertisements. The guide may be found on the DHR website.

Signed By Michael K. Smith, August 4th 2008

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Agency of Administration

VETERANS' PREFERENCE

Number 4.3

Effective Date: March 1, 1996
Subject: **VETERANS' PREFERENCE**
Revised Date: October 1, 1999

Applicable To: Applicants for classified service employment with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

Veterans' preference is the special consideration given to veterans, ex-servicemen or ex-servicewomen, or to certain members of their family in accordance with 3 VSA §310(f) and 20 VSA §1543.

This policy applies only to non-state employee applicants who are applying through the open, competitive process for classified positions.

ELIGIBILITY

The military service upon which the preference is based must have been active duty of at least ninety (90) days duration rendered in any branch of the Armed Forces of the United States and terminated under honorable conditions. This period does not count service under an probationary initial period. Included as eligible are individuals who served in the Coast Guard, Merchant Marine, WAVES, and WACS.

Points are awarded based on the following provisions:

- Ex-servicemen or ex-servicewomen shall receive five (5) points.
- Ex-servicemen or ex-servicewomen who are totally or partially disabled as a result of a service-connected disability at the time of application shall receive ten (10) points.
- Spouses of totally disabled ex-servicemen or ex-servicewomen whose disability is service-connected shall receive ten (10) points.
- Unmarried widows or widowers of deceased veterans shall receive ten (10) points.

To receive the additional points for a total or partial service-connected disability, the applicant must submit a copy of a letter of certification from the Veterans' Administration

PROCEDURE

Veterans' points can be used only for initial employment with the State of Vermont. Veterans' preference points are added only to passing scores: that is, individuals who are placed on an employment register. Veterans' preference helps applicants who might not otherwise be certified; it does not disadvantage other applicants. Open competitive applicants are certified from a register based on the "3 and 10" certification rule (See Number 4.10, Certification Rule). Any other applicants whose exam score plus applicable veterans' preference points brings their total score equal to or greater than the lowest score certified are added to the hiring certificate.

Veterans' status does not confer the right to a mandatory interview.

Signed By Kathleen C. Hoyt, October 25, 1999

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Approved, Secretary of Administration

VERIFICATION OF ELIGIBILITY FOR EMPLOYMENT

Number 4.4

Effective Date: March 1, 1996

Subject: VERIFICATION OF ELIGIBILITY FOR EMPLOYMENT

Applicable To: All classified employees, as well as temporary, exempt, appointed, and exempt, and applicants for classified service employment with the Executive Branch of the State of Vermont

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

All applicants for appointment to the State service shall be authorized to work in the United States. The Federal Immigration Reform and Control Act of 1986 requires individuals to provide, to an employer, proof that they are authorized to work in the United States if hired.

Residence in the State of Vermont shall not be a prerequisite for application or appointment.

GENERAL GUIDELINES

Employment Eligibility Verification, Form I-9 (See Attachment A) was developed for verifying that persons are eligible to work in the United States. Agencies/departments should have a completed Form I-9 on file for everyone hired after November 6, 1986. The law requires the State as an employer to:

- Review document(s) establishing each employee's identity and eligibility to work;
- Properly complete Section 2 of the Form I-9;
- Make the Form I-9 available for inspection to an officer of the Immigration and Naturalization Service (INS), the Department of Labor, or the Office of Special Counsel for Immigration Related Unfair Employment Practices upon request.

To satisfy the employment eligibility verification requirements, agencies/departments cannot request that an employee present more or different documents than are required. They also cannot refuse to honor documents which on their face reasonably appear to be genuine and to relate to the person presenting them.

Section 1 of the form must be completed by the hiring agency/department for new hires when the employee begins work. The hiring agency/department must then review the employee's document(s) and complete Section 2 of the form within three (3) business days of the hire.

Completed forms should be kept in the employee's official personnel file.

Additional copies of Form I-9 may be ordered from the INS at the following address:

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

In addition, the INS publishes a brochure, *Handbook for Employers, Instructions for Completing Form I-9*. Download I-9 Form (PDF Format)

INTERVIEWING AND REFERENCE CHECKING

Number 4.11

Effective Date: March 1, 1996

Subject: INTERVIEWING AND REFERENCE CHECKING

Applicable To: All classified employees, as well as exempt, appointed, and temporary, and applicants for employment with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY

To establish policy for interviewing and reference checking of applicants for positions in classified state service.

GENERAL

The hiring agency/department must consider all applicants on a hiring certificate, but may choose to interview only those applicants who appear to most closely match the job's requirements. An exception is that any applicants with disabilities who have requested the mandatory interview option (See Number 4.9, Mandatory Interview) and appear on a hiring certificate must be interviewed.

The Department of Personnel encourages hiring authorities to interview State and agency promotional candidates. Some agencies have their own interviewing policies that require interviewing of all agency candidates.

STRUCTURED INTERVIEW PROCESS

The Department of Personnel strongly recommends the use of the structured interview. A structured interview is one in which: (1) there is a review/analysis of the job and it's requirements; (2) a set of job-related interview questions is developed prior to the interview and is used for all candidates; and (3) there is a systematic means of evaluating candidates' responses. Further, the Department of Personnel recommends the use of interview panels when practicable or appropriate.

For more details and guidelines on the structured interview process see *Guidelines for Interviewing and Reference Checking*, Appendix E.

NON-DISCRIMINATION

Managers and supervisors must carefully consider which questions they ask during an interview. Questions should not be asked nor comments made during the interview which reflect bias or discrimination on the basis of race, color, religion, ancestry, national origin, sex, sexual orientation, place of birth, age, or physical or mental condition, or which are not clearly job-related.

Americans with Disabilities Act (ADA)

Discrimination against individuals with disabilities is illegal under the ADA, as well as Vermont's Fair Employment Practices Act. All applicants can be questioned about their ability to perform the essential functions of the job. However, it is illegal and prohibited for any interviewer to directly ask applicants if they have a disability. If applicants indicate that they cannot perform an essential job function, hiring managers must proceed to a discussion of reasonable accommodation. If there is a possibility that a person with a disability can perform an essential function with an accommodation, the hiring manager is obligated to provide that accommodation unless it causes an undue hardship or a direct threat (See Number 3.2, Reasonable Accommodation).

DOCUMENTATION

The interview is the critical step in the hiring process. Documentation of this process is good practice that leads to better hiring decisions. In addition, from a legal perspective, documenting judgments about applicants based on the interview is critical. The United State Supreme Court in Watson vs. Fort Worth Bank and Trust (No. 86-6139, June 29, 1988) required that hiring authorities must be prepared to support all hiring decisions with specific facts. Hiring managers must be prepared to show what screening factors were used, how they relate to the job, and how one candidate possesses more of the factor than another based on the results of the interview.

Therefore, it is advisable that the following records be retained in relation to the interview process for a minimum of three (3) years: (1) the list of essential duties and job requirements; (2) what factors were used to select those applicants interviewed (if not all applicants are interviewed); (3) the interview questions asked of applicants; (4) the interviewer(s)' observations/notes; and (5) what evaluation system was used and its results; and (6) a copy of the hiring certificate, if applicable, and copies of candidates' application materials.

INTERVIEW EXPENSES

In accordance with Agency of Administration Bulletin 3.4, a department head may authorize reimbursement of interview expenses, not to exceed $400 per individual, in instances where extreme recruiting difficulty is encountered due to lack of qualified applicants. The department may also authorize reimbursement of expenses for a

second interview, not to exceed $400. Expense in excess of $400 per interview must have the prior approval of the Commissioner of Personnel.

REFERENCE CHECKING

Before any offer of employment is extended, the hiring manager or personnel officer is strongly encouraged to conduct a reference check on the final candidate(s). Candidates should be notified that a reference check will be done and that the information will be used in making the final hiring decision. For more details and guidelines on reference checking, see *Guidelines for Interviewing and Reference Checking*, Appendix E.

NOTIFICATION

The appointing authority must notify every applicant whose name is listed on a hiring certificate of the resolution of the hiring process. Applicants not interviewed must be notified that they were considered but not interviewed. Applicants interviewed must be notified whether or not they have been selected to fill the position. The offer of employment must be put in writing (see sample letter in Attachment A). The appointing authority's (or designee's) signature on the hiring certificate will certify that every applicant on the certificate has been notified in writing.

ATTACHMENT A

SAMPLE LETTER - OFFER OF EMPLOYMENT

March 1, 1996

Ms. Jane Doe

123 Any Street

Anytown, VT 05000

Dear Ms. Doe:

This will confirm that on this date I offered you the position of **(insert job title)**, position number **(insert number)**, that you interviewed for on **(insert date)**. You accepted the job offer and will begin work at 7:45 a.m. on **(insert date)**.

This is a permanent position under the State of Vermont classified system. This position is a pay grade **(insert grade)** and starts at **(insert wage)** per hour. You will receive an Orientation package once you begin employment that will more fully explain all of the benefits of State employment.

Your supervisor will be **(insert name)** whom you met during the interview. If you have any questions between now and your start date, please feel free to call either your supervisor or myself.

Congratulations! We are looking forward to welcoming you as a member of our staff.

Sincerely,

John Doe
Appointing Authority

cc: **(supervisor)**

(personnel officer)

Section 5

EMPLOYMENT CATEGORIES

Number 5.1

Effective Date: March 1, 1996

Subject: EMPLOYMENT CATEGORIES

Supersedes Agency of Administration Bulletin 4.10 Dated: May 21, 1982 (Except Section 4, pages 5 through 9, inclusive.)

Applicable To: All classified employees, as well as exempt, appointed, and temporary, and contractual, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this document is to define the various categories of employment in the Executive Branch of Vermont State Government, and to establish the employment policies and procedures applicable to each.

It is the policy of the State that each person hired by the State of Vermont shall be engaged in the appropriate category as defined herein, and his or her employment shall be in accordance with the policies relating to that particular category.

All employment with the Executive Branch of State government is either classified or exempt, and is enumerated by statute or regulation into specific categories of employment. The classified category includes permanent and limited service positions. The exempt category includes State Police, temporary, elective, appointive, appointive limited positions, and employment for the delivery of a special agreement, contract and retainer service as specified in 3 VSA, 311(a)(10).

GENERAL INFORMATION

Separation of Powers: No agency, department, or other unit within the Executive Branch of State government shall employ in a classified or temporary position, or in a contractual arrangement, any member of the Vermont Legislature during his/her term of

office, except as authorized under the provisions of 21 VSA 496 and the current collective bargaining agreement (applicable to classified employees).

Simultaneous Employment: No full-time or part-time employee shall enter into a contract agreement or other employment which will result in concurrent payments from the State of Vermont under more than one employment category. For example, a full-time employee shall not be concurrently engaged under contract or as a temporary employee with the same or another department.

Exceptions may be made by the Commissioner of Personnel in special circumstances when there is documented evidence of necessity based upon lack of available qualified personnel in the open market, and when the work involved will in no way conflict with an employee's regular working hours or performance of his/her regular duties. A classified employee shall not be granted a leave of absence from his/her regular position to accept other employment, including temporary, contractual, or special agreement employment with the State except in accordance with the applicable provisions of the appropriate collective bargaining agreement or Agency of Administration Bulletin No. 4.5 (a), whichever pertains.

Section 5.10 - Exempt

Exempt service positions are excluded from the classified service by State statute. These positions include State Police, temporary positions, elected and appointed positions.

1. **State Police Positions** - are permanent positions within the Department of Public Safety for uniformed personnel, plainclothes members of the department with powers of arrest, and certain positions in the communications, records, and fire prevention units of the department, as determined by the Commissioner of Public Safety, and to be filled in accordance with its rules and regulations applicable to the State Police.

2. **Temporary Employment Positions** - are positions of persons employed in a temporary capacity pursuant to 3 VSA 311 and 331, and as defined therein.

3. **Elected and Appointed Positions** - are permanent positions that are excluded from the classified service by statute, and are generally filled through the elective or appointive process. Such positions include, but are not limited to:

- Agency secretaries, executive assistants, commissioners, deputy commissioners, private secretaries, and assistant attorneys general.
- Positions in the office of the Governor.
- Positions filled by popular vote or by the legislature.
- Positions in the judicial branch of State government.
- Positions in the legislative branch of State government (except certain positions in the Joint Fiscal Committee if waived by the council).

- Boards, commissions, councils, or similar bodies, plus one principal assistant or executive secretary position for each such body, as authorized by 3 VSA 311(a).
- Positions filled by patients or inmates in State institutions.
- Attorneys employed as legal advisors or special counsel outside the office of the Attorney General, including special counsel for the Public Service Board.

Section 5.11 - Classified Service

A classified employee is an employee of the State of Vermont who is hired to fill a position in the classified service in accordance with merit principles as administered by the Department of Personnel, and who is paid a salary for work performed in a position in the State classification plan.

The classified service shall include all positions and categories of employment except as otherwise provided by law. These positions are characterized by competitive appointment under a merit system of personnel administration, as defined in chapter 10 of the Rules and Regulations for Personnel Administration.

1. **Permanent Full-Time Position** - A position in the classified service with duties and responsibilities of a continuing nature which require an employee to work a full-time, year-round work schedule.
2. **Permanent Part-Time Position** - A position in the classified service with duties and responsibilities which are of a predictable, continuing nature, but which require an employee to work for less than forty (40) hours per week, and/or less than five (5) workdays per week; or, if of a seasonal nature, to work for less than fifty-two (52) weeks per year.

Section 5.12 - Limited Service

A limited service position is a non-tenured position in the classified service which, when initially established, is reasonably expected to exist for a limited duration of less than three (3) years but more than one (1) year. Such positions have a definite termination date and are usually associated with a specially funded project or program.

Section 5.13 - Confidential

A confidential employee is a classified employee having responsibility for, knowledge of, or access to information relating to collective bargaining, personnel administration, or budgetary matters that would make membership in or representation by an employee organization incompatible with his or her official duties.

Section 5.14 - Managerial/Supervisory

1. **Managerial** - is determined by the Vermont Labor Relations Board (VLRB) as being in an exempt or classified position which requires him/her to function as an agency,

department, or institution head, a major program or division director, a major section chief, or director of a district operation.

2. **Supervisory** - means an individual finally determined by the VLRB as having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment.

The Commissioner of Personnel shall designate each permanent position accordingly and may, from time-to-time, change such designation if circumstances so warrant.

Section 5.15 - Contractual

Contractual service is provided to the State by agreement between an authorized representative of the State and an individual and/or organization. In no instance shall the duration of a contractual employer-employee relationship exceed twelve (12) months, except in instances of casual employment, as addressed below. The contracts are reviewed on an annual basis.

1. **Special Agreement Services** - Contracts for services are characterized by:

- Full-time duty for special projects of up to twelve (12) months' duration which cannot be provided by current staff or temporary employees. Individuals are generally provided with work facilities and equipment and are directed by an authorized representative of the State. No special agreement shall exceed twelve (12) months.
- Short-duration services of a continual nature which do not regularly exceed sixteen (16) hours per week; for example, janitorial services for local offices. (A continuing service need which consistently exceeds sixteen (16) hours per week although less than full-time, shall be met through the use of permanent part-time classified positions in accordance with 3 VSA 310.)
- If the contractor is to be paid from the payroll, the agency then submits an *Employment Authorization Form* (AA-PF-2A) to the Department of Personnel. Instructions for preparing this form have been separately issued under joint memorandum by the Departments of Personnel and Finance. An *Agency Time Report Certification Form* and individual time reports must be submitted to the Department of Finance each payroll period to authorize the issuance of a check. Payment through the payroll system is normally authorized only when the contractor is to be paid on the same schedule as State employees and will have taxes or other withholdings from such payment. Contact the Department of Personnel if in doubt as to whether this method of payment is appropriate.

2. **Retainer Services** - are characterized by the State's payment of a fee to an individual or group to ensure availability of services. There is usually no employer-

employee relationship present. (Such an arrangement is usually entered into for professional services, i.e. physicians and attorneys.)

3. **Contract Services** - are characterized by an agreement to deliver services for a specific fee in a specified period. There is no employer-employee relationship created.

Section 5.16 - Temporary

These positions are created on request by an appointing authority to the Department of Personnel when there is a short-term need for additional employees. These positions are outside of the classified service, but are subject to allocation to classes and assignment to pay grades of the State classification plan.

The rate of pay set for a temporary position must be the hiring rate which would apply were the position in the classified service. An exception may be made in a case of difficult recruitment, for outstanding qualifications, or for a former classified employee who is returning to service as a temporary to perform work comparable to a previous classified position. In any such case, rates above pay grade minimum, or approved hiring rate, must be approved by the Department of Personnel before an offer of employment is made.

There are six (6) categories of temporary employees: seasonal; fill-in; bona-fide emergency hires; intermittent; sporadic; or ongoing part-time (that averages less than twenty (20) hours per week during any one calendar year, not to exceed 1040 hours in one calendar year).

The following information applies to all temporary employees:

1. Temporary employees must meet the minimum qualifications established for the job that they are hired to perform, and will be compensated at the applicable rate of pay for hours actually worked, and are entitled to overtime in accordance with federal law.
2. Temporary employees are not eligible for State benefits such as group life and health insurance; sick, annual or personal leave; retirement benefits; holiday pay; and shift differential.
3. Temporary employees are not covered by any collective bargaining unit agreements.
4. Temporary employees are not necessarily covered by any departmental policies governing discipline, unless so specified.
5. Temporary employees are employees at will and have no right to continued employment or a proprietary right to a job. Temporary employment may be terminated at any time for any reason, except as prohibited by law.
6. Temporary employees may be employed, with the approval of the Department of Personnel, for a period not to exceed 1,520 hours in any one calendar year. The secretary of administration may authorize exceptions to the 1,520 hour limit in cases of a bona-fide emergency.

7. The Commissioner of Personnel will not approve a temporary hire if that approval would have the intent or effect of circumventing the policies and purposes of the classified service. Each instance in which such a question arises will be reviewed on its own merits.

NOTE: See Attachment A for *Statement of Employment Conditions for Temporary Employees.*

Section 5.17 - Provisional

In the absence of three (3) available names on an appropriate hiring register, the appointing authority may request the Commissioner of Personnel to approve the provisional appointment of a person meeting the minimum qualifications of the class, pending examination and/or certification requirements and establishment of a register.

1. No provisional appointment shall be made until the position has been classified and minimum qualifications established.
2. No provisional appointment shall continue for more than thirty (30) days after an appropriate certificate of eligibles is submitted to the appointing authority.
3. The acceptance of a provisional appointment shall not confer upon the appointee any rights of permanent status, transfer, reassignment, promotion or reinstatement. A provisional employee who has been tested may compete for the position but may be appointed only if his or her name appears on the certified list.
4. Time spent on provisional appointment shall count towards completion of probationary period.

ATTACHMENT A - STATEMENT OF EMPLOYMENT CONDITIONS FOR TEMPORARY EMPLOYEES

The State of Vermont strives to keep the use of temporary employees to a minimum. Nevertheless, some State agencies have pressing logistical needs for temporary staff. You should be aware that temporary status employment carries certain restrictions. As a temporary employee, you do not have the same rights and benefits as classified or exempt status employees. The hiring of a temporary employee is covered by 3 VSA 331. We ask that you read carefully the conditions of temporary employment which follow, and sign in the space provided at the end of the document.

TEMPORARY EMPLOYMENT:

IS LIMITED TO 1,520 hours of work per calendar year, except in cases of emergency as authorized by the Commissioner of Personnel.

DOES NOT CONFER ACCESS TO PERMANENT EMPLOYMENT IN STATE GOVERNMENT. Temporary employees must compete on an equal footing (or "open competitive basis") with other non-state employee applicants for permanent employment. If hired on a permanent basis, a former TEMPORARY employee must

satisfactorily complete an original probationary period, as would any newly hired employee.

IS LIMITED TO 40 weeks per calendar year if a retired State employee.

TEMPORARY EMPLOYEES:

ARE PAID ONLY FOR ACTUAL HOURS WORKED and are entitled to overtime in accordance with federal law. The State cannot guarantee how long a TEMPORARY job will last and cannot guarantee 40 hours of work per week.

ARE NOT ELIGIBLE FOR THESE STATE BENEFITS: medical benefits programs, group life insurance, sick leave, annual leave, personal leave, retirement benefits, and holiday compensation for time not actually worked.

ARE NOT COVERED BY RIGHTS, BENEFITS, PROCEDURES, AND PRIVILEGES OF CLASSIFIED EMPLOYMENT including, but not limited to those conferred by the collective bargaining agreement.

ARE NOT COVERED BY ANY DEPARTMENTAL POLICIES GOVERNING DISCIPLINE which may guarantee classified employees any review procedures before the disciplinary action is taken (unless specifically noted in the department's policy).

ARE EMPLOYED AT WILL under the law. This means that temporary employees have no right to continued employment or a proprietary right to a job. Temporary employment may be terminated at any time for any reason, except as prohibited by law. (State and federal laws governing discrimination, Workers' Compensation, fair employment practices, maternity leave, disabilities, wages and hours and the like, apply to all employees, including temporaries.)

I, _____, hereby acknowledge and understand that I am being (or have been) hired as a **TEMPORARY** employee by the State of Vermont in the Department of _____. I have read and understand the above conditions of employment. I also understand that this statement of working conditions supersedes anything inconsistent with it, and that these conditions may only be changed by law, or by written order of the Governor or his or her representative.

Employee Signature: _____ Date: _____

Hiring Manager: _____ Date: _____

Dept./Location: _____

CONFLICTS OF INTEREST ARISING FROM EMPLOYMENT

Number 5.2

Effective Date: February 1, 2002

Subject: CONFLICTS OF INTEREST ARISING FROM EMPLOYMENT

Supersedes Policy 5.2 Dated March 1, 1996

Applicable To: All classified employees, as well as exempt, appointed, temporary, contractual, and applicants for employment with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

POLICY STATEMENT

It is the State's responsibility to conduct employment matters in a manner that avoids not only conflicts of interest, but also any appearance of a conflict of interest. Conflicts of interest may arise in: hiring employees; their employment by the State in more than one capacity; outside employment or activities engaged in by employees; and the award of contracts to employees. This policy is intended to promote avoidance of conflicts of interest and the appearance thereof that arise through the employment in the same governmental unit of people who share certain familial or other close relationships. The primary goal is to avoid instances in which the hiring process or any term or condition of employment is inappropriately influenced by such familial or other relationships, or the perception among members of the public or other employees of such impropriety.

It is the general policy of the State that no one will be employed in the same department, institution, or organizational unit that employs a relative. In addition, it is the general policy of the State that no one will be employed in the same department, institution, or organizational unit as a person with whom he or she resides, or the relative of a person with whom he or she resides. It is important to note that the definition of "relative," for purposes of this Policy, includes spouses, civil union partners, and domestic partners, in addition to the other familial relationships listed in the definition.

This policy applies to all employment decisions including, but not limited to, those concerning new hires, promotions, demotions, transfers within State government, and changes in categories of employment (such as moving from temporary to classified service). Hiring managers must ask prospective candidates if they have any relatives, a

civil union partner, a domestic partner, other person with whom they reside, or relative of any of the foregoing currently working for the State of Vermont.

DEFINITIONS

CIVIL UNION PARTNER – a person who has entered into a civil union pursuant to Vermont law. Civil union partners shall be treated the same as spouses under this policy.

DIVISION - a major unit of a department of State government, usually headed by a director.

DOMESTIC PARTNER - a person of the same or opposite sex who lives with a State employee under circumstances in which they have agreed between themselves to be responsible for each other's welfare.

EMPLOYMENT - working for the State in a permanent, limited, or temporary position; in an exempt position; or under contract.

RELATIVE - includes parent, grandparent, spouse, civil union partner, domestic partner, child, brother, sister, grandchild, aunt, uncle, niece, nephew, parent-in-law, brother-in-law, sister-in-law, step-parent, step-child, any other person so related through marriage, and any other person so related to one's civil union partner or domestic partner.

PROCEDURES FOR REQUESTING WAIVER

Requests for waiver of the general policy may be submitted to the Commissioner of Personnel. Waiver requests will be evaluated to determine the extent of current or potential conflicts of interest, or the appearance thereof. The Commissioner's consideration will include, but not be limited to the following:

* the size of the employer;
* the closeness or remoteness of the relationship between the family members or co-habitants;
* the reporting relationships within the organization and the likelihood that the employees would work together or either employee would be in a position to influence any aspect of the other's employment;
* the degree to which the action would aid the department in attaining an applicable affirmative action goal;
* the level, status, and geographic location of the positions;
* the extent to which the proposed employment may reduce management's flexibility with respect to work assignments or future transfer or promotion of such person;
* the availability of other qualified, suitable, and interested applicants for the position, as demonstrated by the documented results of the recruitment effort for the position that is the subject of the waiver request.

Waivers will not be approved to allow employment of a person in any case in which the waiver would be necessary because of a relationship with a management employee (either classified or exempt) of the department, except in the limited circumstances described below. Waivers will not be granted in any case in which one of the affected positions is an exempt head of a department, or a deputy thereto. Waivers will not be granted in any case in which one of the affected positions is designated a managerial position, except those cases in which the managerial position is assigned to a defined region separate from the departmental headquarters and does not normally take part in the general, state-wide management of the department or a department-wide program. Waivers under this limited exception are disfavored and will be granted only when the lack of potential conflicts is apparent and the waiver is plainly in the State's best interest.

All requests for waiver shall be submitted to the Commissioner of Personnel prior to the extension of an offer of employment (including the approval of transfers, promotions, reclassifications, or any other change in position or permanent workplace assignment) and shall include the following information:

* Names of the applicant and the person whose employment causes the conflict, as defined by this policy, and their relationship to one another.
* A current organizational chart that identifies both positions and shows the reporting relationships within the organization.
* Status of the position under recruitment (i.e., permanent, limited, temporary, exempt, etc.).
* Proposed starting date of employment.

No promise or offer of employment made to a person covered under this policy shall be valid, effective, and enforceable unless previously approved by the Commissioner of Personnel or delegated representative.

Any waiver which is approved applies only to the circumstances identified in the request. A further waiver must be requested for any change in employment status including promotion of the person subject to a waiver. If a waiver is granted, each employee must sign a *Conditional Approval to Hire a Relative* form to acknowledge awareness that future duty assignments and/or employment opportunities may be denied based on this policy.

CONFLICTS OF INTEREST ARISING DURING EMPLOYMENT

Conflicts of interest that arise (or become known) during employment must be avoided to the extent that is reasonably practicable. Employees who during their employment become the relative (including by marriage or civil union) or domestic partner of another employee, or who begin to reside with another department employee, must make those facts known to the employing department. They will not be required to leave State employment solely as a result of that change in circumstances. However, any favoritism

or other inappropriate action by either employee that is attributable to the relationship with the other employee will lead to corrective or disciplinary action, up to and including dismissal.

Where a conflict of interest has arisen during employment, the employer must take all reasonable and practicable measures, including, but not limited to, changes in supervision, work location, and/or work shift, to avoid to the greatest extent possible the conflict or the appearance thereof.

This policy shall also apply to promotion or other subsequent employment action that affects an employee. The employer shall avoid creating or exacerbating any conflict of interest situation that arose during employment by any promotion or other subsequent actions involving the affected employees.

Questions regarding this policy should be directed to the Employee Relations Division of the Department of Personnel, 828-3454 or 828-2972.

PROBATIONARY PERIODS

Number 5.3

Effective Date: March 1, 1996

Subject: PROBATIONARY PERIODS

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It is the purpose of this policy to establish probationary periods for all employees entering the classified service, and for all classified employees who are promoted or reassigned to a higher pay grade.

The probationary period is designed to give the employee time to learn the duties of the position and to give the supervisor time to evaluate the employee's potential and performance. It is a working test period during which an employee is expected to demonstrate his or her capacity for the position by adequate performance of its duties.

Probationary employees may: have their probationary status extended; be disciplined; be laid off; or be dismissed by the State solely at the discretion of management, without regard to the provisions of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA), and with no right to the grievance process.

DEFINITIONS

ORIGINAL PROBATIONARY PERIOD - that working test period, normally six months from the effective date of appointment plus any extensions, served by all employees entering the State classified service by any means other than restoration and reemployment, in which the employee is expected to demonstrate satisfactory performance of job duties.

PROMOTIONAL PROBATIONARY PERIOD - that working test period which applies when an employee is promoted to a position assigned to a higher pay grade and in certain upward reallocation situations.

ORIGINAL PROBATION

1. DURATION: An original probationary period is normally six (6) months The date of completion is calculated by adding six (6) months to the date of hire. In no case will a probationary period exceed twelve (12) months. However, the probationary period in some cases may be twelve (12) months as determined by the Commissioner of Personnel. The probationary period for these employees may not be extended beyond an additional twelve (12) months.
2. PERFORMANCE EVALUATION: It is expected that the supervisor will conduct informal performance evaluations with the employee during the course of the probationary period to assess performance and to advise the employee of expectations regarding performance (and employment issues such as attendance, etc.). Significant job deficiencies should be discussed with the employee and documented in the employee's personnel file.
3. COMPLETION OF PROBATION: A performance evaluation of at least satisfactory is required for completion of original probation, and appointment to the position. A copy of such notice shall be given to the employee. The State reserves the right to terminate the probationary employee's service on the basis of unsatisfactory performance, or on the basis of other reasons deemed sufficient by the State, at any time during the first six (6) months. The probationary employee shall be notified of such action in writing by the appointing authority. The date of completion of probation will be determined by adding six months to the date of appointment to the position. The employee will satisfactorily complete probation by default if no evaluation is given to the employee prior to the scheduled date of completion.
4. EXTENSION: With the consent of the Commissioner of Personnel, an appointing authority may extend the probationary period for a designated individual by a definite period of time (as listed in No. 1 above). The employee must be notified in writing of the reason for and the length of the extension prior to the probation completion date. If advance notice is not given to the employee in writing, the employee will complete probation through administrative default.
5. LEAVE OF ABSENCE: If an emergency arises during an employee's probationary period which requires a leave of absence, such time off, if granted, will not be considered as time worked. The probationary period will automatically be extended for a period equivalent to the time on leave. The employee should be notified that probation will be extended when the leave is approved. If an employee is on leave for less than a full pay period, or for occasional and sporadic absences, it is up to the discretion of the appointing authority whether or not the probationary period will be extended, and the employee must be so notified.

PROMOTIONAL PROBATION

1. DURATION: Employees who are reclassified upward or promoted, shall normally serve a probationary period of six (6) months or twelve (12) months for some specific cases. On recommendation of the appointing authority, and with the

consent of the Commissioner of Personnel, the probationary period may be extended for a definite period of time, with written notification to the employee for the reason for the extension and the definite period thereof.

2. PERFORMANCE EVALUATION: It is expected that the supervisor will conduct informal performance evaluations with the employee during the course of the probationary period to assess performance and to advise the employee of expectations regarding performance (and employment issues such as attendance, etc.). Significant job deficiencies should be discussed with the employee and documented in the employee's personnel file.
3. COMPLETION: The employee's promotion is conditionally granted and the employee must satisfactorily complete the probationary period to gain status. If the employee is not performing the higher-level duties at a satisfactory level and is not working out, the employee may be placed back into the employee's previously held job. In these cases, the personnel officer must contact the Department of Personnel to determine if the employee's former job is still vacant.

PERSONNEL RECORDS

Number 5.4

Effective Date: March 1, 1996

Subject: PERSONNEL RECORDS

Applicable To: All classified employees, as well as exempt, appointed, temporary and contractual, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It is the purpose of this policy to establish procedures and responsibilities for the creation and maintenance of personnel records.

OFFICIAL PERSONNEL FILE

The State's official personnel file for each employee (except for pre-employment documents as maintained by the Department of Personnel) is created and maintained by an employee's agency or department. For new employees, the hiring agency shall establish the official personnel file, which will be that employee's official file as long as (s)he remains a State employee. Agency personnel officers shall devise a system for maintaining personnel files for all of their employees. The agency or department shall inform the employee where the official personnel file is maintained.

Personnel records are confidential and shall be maintained as necessary to ensure their confidentiality. These records shall be readily accessible for review by the appointing authority or his or her designee.

In the case of a transfer, the official personnel file shall be sent by the employee's current personnel officer directly to the personnel officer of the new employing agency or department.

When employees leave State employment, their official personnel file must be maintained for three (3) years from the date of separation (or longer if required by law). The file must be maintained for this time either by the separating agency or department, or placed in permanent storage at Public Records.

If a former employee is rehired within the three (3) year period, the hiring agency or department can contact the Department of Personnel to determine the location of the official personnel file so that they may request that the file be forwarded to the new hiring department.

The Employee Personnel Records article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) provides more information about the official personnel file.

EMPLOYEE ACCESS TO RECORDS

Employees will be allowed access to the official personnel file during normal working hours, at a time convenient to the employer and the employee. Employees have the right to provide written authorization for their bargaining representative or attorney to act for them in requesting access to the official personnel file.

Information that is legally confidential or privileged, and supervisor's notes are **not** available for review by the employee or his or her representative. Letters of reference or comments about employees from previous employers are examples of material that may be confidential and not releasable to employees. Similarly, supervisor's notes that have not been merged into some formal report or action do not have to be released.

Otherwise, employees are entitled to receive a copy of other documents in the official personnel file, and of material that the State plans to use in any grievance hearing involving the employee. If employees desire more than one copy, they may be charged for the extra copies at the going rate for photocopy per page.

CONTENT

The State's official personnel file for each employee should contain at least the following information:

1. A copy of the employee's job application for the current position.
2. A copy of the employee's current job description (PER-10) and class specification.
3. A copy of all valid performance appraisal reports and performance standards.
4. A copy of each personnel action form that has authorized any change in employment status, position, classification, pay or leave status, etc.
5. A copy of any reprimands and warnings, suspensions, or performance discipline, as outlined in the Employee Personnel Records Article of the current contract..
6. Written records of discussions shared with employees regarding performance deficiencies.
7. Documents relating to corrective action or disciplinary action.
8. A copy of any other official documents.
9. Any other material permitted or required by the contract.

An employee, with the concurrence of the appointing authority, shall have the option of placing in the official personnel file any work-related commendations.

Certain information may not be kept in the official personnel file. For example, notes, grievance material or other VSEA related material, and medical information (related to reasonable accommodation determination and blood borne pathogens exposure incidents) shall be kept in separate files, and not maintained as part of the official personnel file.

Any questions regarding this policy should be directed to the Employee Relations Division of the Department of Personnel, at 802-828-3454.

EMPLOYEE INFORMATION

Number 5.45

Effective Date: May 22, 2007

Subject: EMPLOYEE INFORMATION

Applicable To: All classified employees, as well as exempt, appointed, temporary and contractual, with the Executive Branch of the State of Vermont.

Issued By: Department of Human Resources

Approved By: Michael K. Smith, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It is the purpose of this policy to establish appropriate standards regarding personal and confidential employee information that is received, used, and maintained by employees of the State in the execution of their official duties, and to safeguard the confidentiality of such information.

This policy is not meant to restrict access to public records appropriately requested in accordance with 1 V.S.A. § 318. Those with access to Employee Information, as defined below, must comply with this policy and safeguard Employee Information regardless of whether the information may be subject to release in response to a public records request.

Definitions:

Employee Information

Employee Information is information that is personal to a State employee and that is received, used or maintained by the State, regardless of its source. This includes, but is not limited to, job applications and other personnel records and information obtained from individuals via web sites, email, or other formats that contain personal information about an employee. This applies to all versions of information including but not limited to: all files, regardless of medium, means of storage, transmission, communication, and disposition.

Confidential Employee Information

Confidential Employee Information is Employee Information that is personal, private information that identifies, describes, or pertains to an employee, including but not limited to: age and birth date; gender; race; ethnicity; social security number; motor vehicle operator's license or non-driver identification card number; home address; personal telephone numbers (home, cellular, emergency contact, and other non-official telephone numbers); financial account numbers and other private financial information; marital, domestic partner, and/or civil union status and dependent information; life insurance beneficiary designation; medical information; benefit plan enrollment, coverage, or deduction information; information about an employee's claimed or recognized impairments or disabilities; and, employment history outside of Vermont state government.

In addition, certain information that relates to an employee's position or official duties may also be Confidential Employee Information, such as performance evaluation ratings and history of disciplinary action. Information that is descriptive of an employee's position or official duties is not Confidential Employee Information unless made confidential by statute or other regulation. An employee's name, base salary, work location, and/or official job title is also not Confidential Employee Information.

Any information that is confidential pursuant to law is also Confidential Employee Information, such as, but not necessarily limited to, the results of a criminal background check.

Additional guidance regarding Confidential Employee Information can be found in Human Resources Policy 5.5 - **Confidentiality**.

Employee Information Standards and Practices

1. It is the responsibility of those who have access to Employee Information to understand the policies governing its use. Employee Information may be accessed or used only when carrying out job duties in response to a legitimate State business need and should not be disclosed to others who do not have a legitimate business-related need to know. Employees with access to, or responsibility for, the collection, use, maintenance, dissemination, and/or disposal of Employee Information shall comply with the provisions of this policy and all procedures written in accordance with this policy. Failure to comply with the provisions of this policy may result in appropriate disciplinary action up to and including termination of employment.
2. Employees responsible for collection, use, maintenance, dissemination and/or disposal of Confidential Employee Information shall take all necessary precautions to ensure that proper administrative, technical, and physical safeguards are established and followed in order to protect the confidentiality of such information and to prevent its disclosure to unauthorized individuals or entities.
3. Access to Confidential Employee Information (electronic and other) available through Human Capital Management (HCM), the Oracle Discoverer database,

and the restricted area of the DHR Intranet site is controlled by the Department of Human Resources (DHR). This includes determinations of levels of access for specific users, or specific roles to which users may be assigned, or both. DHR is responsible for the establishment and verification of user identity and the issuance, administration, and revocation of access.

4. In accordance with specific business needs, additional policies may be created by DHR that further define Employee Information and establish procedures for the access, disclosure, disposition, protection and use of such information resources.
5. This policy is not meant to prohibit the development of memoranda of understanding, inter-departmental agreements, and/or contractual agreements regarding the use of information resources such as Employee Information, as long as those agreements are in compliance with DHR Policies. *New agency policies and revisions to existing policies regarding Employee Information and especially Confidential Employee Information must be approved and on file with DHR.*

All who have access to Employee Information, including contractors, must be cognizant of and abide by all information security policies and are encouraged to continuously examine how information resources are managed to improve protection of Employee Information.

An employee who becomes aware of a security breach of State-maintained Confidential Information or other information resources, or suspects the potential of it being lost or misused, must notify his or her agency's Appointing Authority and DHR immediately.

Signed by Michael K. Smith, May 22, 2007

Agency of Administration

CONFIDENTIALITY

Number 5.5

Effective Date: March 1, 1996

Subject: CONFIDENTIALITY

Applicable To: All classified employees, as well as exempt, appointed, temporary and contractual, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE

The purpose of this policy is to clarify what employee documents and information maintained by the employer must be shared, and what information is to be kept confidential.

PUBLIC INFORMATION

POSITION INFORMATION: The following employee records, as related to position information, are public information:

- ☐ Department and location where employed.
- ☐ Title and pay grade of position; salary range for that pay grade.
- ☐ Employee's GROSS salary only.
- ☐ Type of employment (such as temporary, exempt or classified, full-time or part-time).
- ☐ Length of employment with dates and titles of positions held.

CONFIDENTIAL INFORMATION

PERSONAL INFORMATION: The following employee information, which is personal and thus confidential, is not public information:

- ☐ Home address or telephone number.
- ☐ Social Security number.
- ☐ Employee's age or birth date.
- ☐ Test scores.
- ☐ Performance ratings.

- ☐ Any other information on the job application form such as previous work history, education, whether or not the employee has been convicted, imprisoned, placed on probation or under supervision or fined for any violation of any law.
- ☐ Insurance information, including medical information and Workers' Compensation information.
- ☐ Records on disciplinary action against the employee.
- ☐ All other information on personnel actions or record cards unless releasable as public information listed above.

CONTRACT NEGOTIATIONS: All information relating to contract negotiations shall be considered confidential.

LIMITED ACCESSIBILITY

APPLICANT RECORDS: No one may see any records on job applicants except the applicant, or an appointing authority or designee when filling a job for which the individual has applied. Please note that this applies to employees who wish to be considered for transfer. Supervisors do not have a right to know whether or not one of their current employees is applying for transfer to another position in State government.

EMPLOYEE RECORDS: Personal information may be seen only by persons with a legitimate need to know such as an employee's supervisor, the personnel administrator of the employee's department, the employee's department head, or other prospective State employers. Those representatives of the employee who have the signed permission of the employee may also have access to personnel file information except those that are confidential or privileged under law or to supervisory notes.

EXAMINATION MATERIALS: All test questions, scoring keys, and other examination instruments or data used to administer an employment examination shall be confidential. Examination scores for an individual applicant shall be available only to that applicant and an appointing authority or designee for consideration in filling vacancies. Examination materials shall be available only to persons engaged in the administration, construction, or revision of the examination, except during the administration of the examination to applicants.

EMPLOYEE CONDUCT

Number 5.6

Effective Date: December 15, 1996

Subject: **EMPLOYEE CONDUCT**

Applicable To: All classified employees, as well as exempt, appointed, and temporary, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

POLICY AND PROCEDURES

This policy is a guide for agencies and departments regarding general issues of employee conduct. It is understood, however, that individual departments may need to have more specific guidelines and may wish to issue guidelines that are appropriate to their program function and the roles of their employees.

REQUIRED CONDUCT

1. It shall be the duty of employees to fulfill to the best of their ability the duties and responsibilities of their position. Employees shall pursue the common good in their official activities, and shall uphold the public interest, as opposed to personal or group interests.
2. Employees shall devote their full time, attention, and effort to the duties and responsibilities of their positions during their scheduled work time, except when other activities are authorized by law, rule, or contractual agreement, or are approved by the appointing authority.
3. Employees shall conduct themselves in a manner that will not bring discredit or embarrassment to the State of Vermont, whether on or off duty.
4. Employees shall respect the legitimate privacy interests of their co-workers, superiors, and employer, both as to personal property and work product in the workplace. Employees have access only to information which is necessary for the performance of their job duties except as otherwise approved by their employer. Employees who wish to have access to information which is not required for the performance of their jobs may exercise their right as a citizen to request information under Vermont's access to public records statute (See 3 VSA 315).

PROHIBITED CONDUCT

1. Employees shall not use, or attempt to use, their positions to obtain special privileges or exemptions for themselves or others.
2. Employees shall not use, or attempt to use, State personnel, property, or equipment for their private use or for any use not required for the proper discharge of their official duties.
3. Employees are not permitted to solicit or accept any form of compensation from anyone except their employer for activities which are related to their position, unless it is provided for by law or approved by the employer. Prohibited compensation shall include any gift, reward, loan, gratuity or other valuable consideration, including free meals, provided to employees, their immediate family, or business associate(s). Activities related to the position include papers, talks, demonstrations, or appearances connected with the job. However, this prohibition shall not extend to uncompensated activities or compensation received for activities not related to the employees' jobs which are done on their own time.
4. Employees shall not engage in any employment, activity, or enterprise which has been or may be determined by the appointing authority to be inconsistent, incompatible, or in conflict with their duties as a State employee or with the duties, functions or responsibilities of the agency by which they are employed. The mere appearance of impropriety may constitute a conflict of interest. Employees shall consult with their appointing authority prior to engaging in such employment, activity, or enterprise. Employees whose employment, activity or enterprise pre-dates this policy or their employment with the State shall promptly consult with their appointing authority to resolve any issue of conflict of interest.
5. Employees may not engage in any outside employment, activity, or enterprise during work hours.
6. Employees shall not disclose, directly or indirectly, information which they receive or have access to by virtue of their official duties, either for the private gain or benefit of themselves or others, except as authorized by their superiors or by law.
7. Employees shall not discriminate against, intimidate, nor harass any employee because of race, color, religion, creed, ancestry, sex, marital status, age, national origin, handicap, membership or non-membership in the VSEA, filing a complaint or grievance, or any other factor for which discrimination is prohibited by law.

POLITICAL ACTIVITY

Number 5.7

Effective Date: March 1, 1996

Subject: POLITICAL ACTIVITY

Applicable To: All classified employees, as well as exempt, temporary, and contractual, and most exempt employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It is the purpose of this policy to avoid possible conflict of interest; to ensure that employees can perform their jobs without being pressured to support political candidates or to interpret regulations favorably for supporters of such candidates; and to promote public confidence in the integrity of Vermont State Government to the end that State employees will not be perceived as making decisions on the basis of political loyalties.

DEFINITIONS

NON-PARTISAN ELECTIONS - These are elections in which none of the candidates is to be nominated or elected as representing a political party whose candidates for presidential elector received votes at the last preceding presidential election.

PARTISAN ELECTIONS - These are elections in which a candidate is to be nominated or elected as representing a political party whose candidates for presidential elector received votes at the last preceding presidential election.

STATE - means a State or territory or possession of the United States.

STATE OR LOCAL AGENCY - means the executive branch of a State, municipality, or other political subdivision of a State, or an agency or department thereof.

FEDERAL AGENCY - means an executive agency or other agency of the United States, but does not include a member bank of the Federal Reserve System.

STATE OR LOCAL OFFICER OR EMPLOYEE - means an individual employed by a State or local agency whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a federal agency, but does not include: (a) an individual who exercises no functions in connection with that activity; or (b) an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by a State or political subdivision thereof, or by a recognized religious, philanthropic, or cultural organization.

WHO IS COVERED

The majority of employees are covered by the Political Activity article of the Agreements between the State of Vermont and the Vermont State Employees' Association, Inc., and Section 3.02 of the Rules and Regulations for Personnel Administration.

State employees whose work is connected with federally funded programs may be covered by the Hatch Act, a federal law. The Hatch Act restricts the political activities of State employees who work in a program financed in whole, or in part, by federal loans and grants. The Hatch Act also covers employees while they are on annual leave, sick leave, leave without pay, or similar types of leave.

The source of an employee's salary does not necessarily determine jurisdiction under the provisions of the Hatch Act. Rather, jurisdiction is based on whether the employee's position and duties are connected with a federally financed activity. An employee who works in a program which receives federal funds, and whose position relates to the purpose for which the federal funds were granted, would be subject to the Hatch Act whether or not his or her salary is derived from federal funds.

PROHIBITED ACTIVITIES

An employee **may not**:

1. Use his or her official authority or influence for the purpose of interfering with or affecting the nomination or election or any candidate for public office.
2. Directly or indirectly command, solicit in a coercive fashion, or advise any other employee to participate in any political activity.
3. Directly or indirectly solicit in a coercive fashion, command or advise any other employee to pay, lend, or contribute money or anything of value to a political party, candidate, committee, organization, agency or person for political purposes.
4. Participate in national, state, or local community activities or hold public office in the local community in which the employee resides if such activity would be a conflict of interest under the provisions of Section 3.01, et. seq., of the Rules and Regulations for Personnel Administration, or the Hatch Act. (Also see Section 5.1, Conflict of Interest Policy in this manual.)

5. Participate in the above referenced activities even if the employee is on sick leave, annual leave, leave of absence without pay, or other authorized leave.
6. Campaign in or on State property, both during and after working hours.

In addition, an employee who is covered by the Hatch act may not: be a candidate for elective office in a partisan election.

PERMITTED ACTIVITIES

An employee **may**:

1. Vote.
2. Freely express his or her opinions on all political subjects and candidates.
3. Participate in local community activities or hold public office in the local community in which (s)he resides, provided that such activity is not a conflict of interest under Section 3.01 of the Rules and Regulations for Personnel Administration or the Hatch Act.
4. Be a candidate for office in a political party, organization or club.
5. Take an active part in political management or in a political campaign.
6. Be granted a leave of absence without pay (at the discretion of the appointing authority) to run for any office at the State, national, or local level, or to act in any such capacity, if elected, subject to the operating needs of any agency, conflict of interest restrictions, other legal barriers as may be determined by the attorney general, or the Hatch Act or other applicable federal law.

However, employees **shall** devote their full time, attention and efforts to their office of employment during their hours of duty. Permitted activities may be engaged in during non-working hours, or when an employee is on **authorized** leave.

GENERAL PROVISIONS

Use of Official Authority; Coercion: These prohibitions are aimed at activities such as threatening to deny promotion to any employee who does not vote for certain candidates; requiring employees to contribute a percentage of their pay to a political fund; influencing subordinate employees to buy tickets to political fund-raising dinners and similar events; and matters of similar nature. These prohibitions principally affect supervisors, but are applicable to any covered employee. For instance, employees still may not coerce, command, or advise other employees to make political contributions or to contribute their time or anything of value for political purposes.

Candidacy: A State or local officer or employee subject to the Hatch Act may not be a candidate in a partisan election for any public office or for ANY political party office which is obtained through a partisan election (such as a primary election).

Primary and run-off elections to nominate candidates of partisan political parties are partisan elections for purposes of the law.

The law permits officers and employees to be candidates in non-partisan elections.

Expressing Political Views: State employees subject to the Hatch Act may express their individual opinions on political campaigns and candidates but not on work time nor in work places. Examples include employees wearing badges or buttons, or displaying stickers or posters on their cars or houses. While the federal law does not prohibit this, regulations of the State or local agency may limit or restrict it if, in their judgment, it violates Section 3.015 of the Rules and Regulations for Personnel Administration.

Political Management: Membership and office-holding in a political party, organization, or club is permitted. Employees may attend political meetings, vote on candidates and issues, and take an active part in the management of the club, organization or party. Employees covered by the Hatch Act may not run as candidates for any political party office in any public partisan election, such as a primary election.

Attendance at a political convention and participation in the deliberations or proceedings of the convention or any of its committees are also permitted activities. Employees may be candidates for, or serve as delegates, alternates, or proxies at a political convention. If covered by the Hatch Act, the candidacy must not involve a public partisan election (such as a primary election). Volunteer work for a partisan candidate, campaign committee, political party, or nominating convention of a political party is permitted.

Political Campaigns: An employee may campaign for a candidate in a partisan election by making speeches, writing on behalf of the candidate, or soliciting voters to support or oppose a candidate. An employee may attend a political meeting or rally including committee meetings of political organizations, and may serve on a committee that organizes or directs activities at a partisan campaign meeting or rally. An employee may sign nominating petitions for candidates in a partisan election for public office, and may originate or circulate such petitions, but not on work time nor in the work place.

Contributions: Employees may make a financial contribution to a political party or organization. They may not solicit, in a coercive fashion, command or advise another employee to make such contributions.

Public Office: The law that prohibits political activity does not prohibit holding a public office. Therefore, if an employee holds an elective office when appointed to a covered State position, the employee may continue to serve in that office. However, if the employee is covered by the Hatch Act, the employee may not be a candidate for reelection in a partisan election. Likewise, an employee may accept appointment to fill a vacancy in an elective office while concurrently serving in a covered position. Such an employee should, of course, ascertain from his or her employing agency if acceptance of such an appointment may constitute a conflict of interest.

An employee may serve at the polls as an election official or clerk, or as a checker, watcher, or as a challenger for a political party candidate in a partisan election, providing the employee is on approved leave.

The Political Activity article of the agreement between the State of Vermont and the Vermont State Employees' Assoc., Inc. sets forth the criteria and restrictions for the granting of an unpaid leave of absence to run for any elected office at the State, national or local level, or to serve in such office if elected.

No agency, department, or other unit within the executive branch of State government shall employ in a classified or temporary position, or in a contractual arrangement, any member of the Vermont Legislature during that person's term of office, except as authorized under the provisions of 21 VSA 496, and the collective bargaining agreement (applicable to classified employees).

State Law: Where State law establishes more strict prohibitions on the political activity of State and local employees than federal law, the State law takes precedence.

Section 6

CLASSIFICATION SYSTEM

Number 6.0

Effective Date: March 1, 1996

Subject: **CLASSIFICATION SYSTEM**

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It is the policy of the State of Vermont to adopt and maintain a uniform and equitable plan of classification for each position within the State's classified service. The State Classification Plan provides a uniform and systematic method of evaluating these positions, for the purposes of internal position alignment and assignment to pay grades with salary ranges.

The Classification Plan covers all Executive Branch positions except those exempted by 3 VSA 311, or exempted by any other provision of law.

The Commissioner of Personnel allocates each position to a class and assigns a pay grade to each job class. Standards are established to maintain current position descriptions by defining the nature, scope, and accountability for each position or class.

The Commissioner of Personnel administers the State Classification Plan. Agency/department heads will provide the Commissioner with current and up-to-date information regarding the job duties and responsibilities for all positions within their organizations.

DEFINITIONS

APPOINTING AUTHORITY - person authorized by statute, or by lawfully-delegated authority, to appoint and dismiss employees.

ALLOCATION - the placement of a new position into an existing class or a new class.

REALLOCATION - changing a position from one class to another.

ASSIGNMENT - the placement of a class into a pay grade.

REASSIGNMENT - changing a class from one pay grade to another pay grade.

CLASS - a grouping of one or more positions that are sufficiently similar in the duties performed; degree of supervision exercised or received; minimum requirements of training, experience, or skill; and other characteristics. These similarities allow the same title, test of fitness, and pay grade to be applied to each position.

ASSOCIATED CLASS - a grouping of one or more positions which, although included in one broad class, differs from other positions in that class in the duties and the minimum qualifications.

POSITION - a group of current duties and responsibilities (constituting a job) which normally requires the full-time or part-time employment of only one person.

CLASSIFIED POSITION - a position in the State classified service that is assigned to a class. An appointment to a classified position is made in accordance with the merit system.

CLASS SPECIFICATION - a written description of the nature of the work, level of responsibilities, significant environmental factors, required skills, and minimum qualifications for a class. This official document provides a general description of one or more positions which have similar duties, qualifications, and levels of responsibility and have been grouped together into a single class and assigned to the same pay grade. The class specification includes an appropriate title, description of the nature of the work performed, the level of responsibilities, and the minimum qualifications needed to apply for a position in the class.

POSITION DESCRIPTION - the job content questionnaire, *Request for Classification Action PER-10* form which is the primary document used for job evaluation and allocation to a class. It contains information describing a specific position: i.e. the specific duties of a position, nature and scope of supervision, job difficulty, financial impact, specific skill requirements, interaction with colleagues and clients, placement within the organization, working conditions, and other information relevant to the evaluation of the job.

CLASSIFICATION PLAN - the arrangement of positions into separate classes and the ranking of the classes in relative order.

CLASSIFICATION REVIEW - the process to determine whether an individual position, or any group of positions, is correctly allocated to a class, and/or the class is correctly assigned to pay grade.

MINIMUM QUALIFICATIONS - criteria established for the initial screening of job applicants. Minimum qualifications are usually expressed in terms of the nature and amount of formal education, training, work experience, as well as any special requirements such as licenses, certifications or physical standards. Minimum qualifications are set at a level that provides a reasonable likelihood that a candidate for the job possesses the most important minimum required knowledge, skills, and abilities for adequately performing entrance level work in the job.

MERIT SYSTEM - 3 VSA 312 - *"the system developed to maintain an efficient career service in State government under public rules, which, among other provisions, includes appointment through competitive examination; nondiscrimination because of race, sex, politics, national origin, or religion; an equitable and adequate compensation plan; tenure, contingent on successful performance; and promotion, contingent on evaluated capacity and service."*

PAY GRADE - one of the established salary ranges within the total compensation plan for which a minimum and maximum rate is established. Each class is assigned to a pay grade.

RECLASSIFICATION - a term which is frequently used interchangeably with "reallocation".

CONCEPT OF CLASSIFICATION

Job classification is a system of identifying and describing the different kinds of work in an organization and then grouping similar positions under common classification titles. It establishes the orderly grouping of an organization's positions into a framework based on logical relationships among the positions. The system identifies differences and similarities in kinds of work, degree of difficulty and the responsibility of duties among positions.

Classification is based on job content rather than on individual qualifications or how well an employee can perform the duties of a job. Job content is the kind and level of work assigned to a position.

Classification can be used for management purposes, such as to:

- ☐ identify or create career ladders within an organization;
- ☐ form an equitable basis for compensation;
- ☐ identify specific recruitment and selection criteria;
- ☐ design new jobs or to modify existing jobs;
- ☐ provide information to managers about an occupational mix or configuration of the organization;
- ☐ identify variations in an organization's design;
- ☐ indicate methods of decision making, organizational chain of command, and lines of authority;

- ☐ aid in planning and budgeting for personnel services;
- ☐ form a basis for establishing standards of employee performance.

CLASSIFICATION GROUPINGS

The State maintains a single classification plan which includes thousands of positions and several hundred occupations and job categories. A classification grouping reflects the relative similarities and differences of each job in an organization and provides a measure for identifying job-related conditions within that organization. Positions are classified and grouped primarily based on their similarities. This grouping is necessary to organize jobs, establish career distinctions, develop organizational change and identity. It may also provide for internal comparative review, including the identification of occupational categories required by federal or State authority.

This process begins as a broad grouping of occupational characteristics or occupational fields followed by sorting into an occupational series, and completed with distinct jobs in a class series. An example of the completed grouping would be:

Occupational Field
    Administrative, Fiscal, Management, and Property
Occupational Series
    Accountants
Class Series (Job Family)
    Accountant C
    Accountant B
    Accountant A

1. **Occupational Field**: Positions are first placed in one of sixteen (16) Occupational Fields based on the professional, technical, or administrative expertise required of the position. Positions assigned to a particular Occupational Field have degrees of similarity in education, training, responsibilities, or duties.

The sixteen (16) Occupational Fields are:

- ☐ Administrative, Fiscal, Management and Property
- ☐ Buildings, Trades, and Maintenance
- ☐ Casework and Support Services
- ☐ Clerical and Secretarial
- ☐ Conservation and Agriculture
- ☐ Data Processing
- ☐ Health Services and Laboratory
- ☐ Development, Promotion, Information, and Publicity
- ☐ Education, Libraries, and Archival
- ☐ Engineering and Technical Support
- ☐ Employment and Training Related
- ☐ Law Enforcement, Legal, Inspection, Regulation and Protection

- ☐ Patient Care and Mental Health
- ☐ Personnel and Training
- ☐ Planning, Research, Statistics, and Evaluation
- ☐ Stocks, Stores, and Communications

2.. **Occupational Series**: Occupational Series identify sub-groups of occupations within the broader occupational field. Occupational Series are found within specific job disciplines. An example from the administrative-fiscal occupational field is:

Administrative, Fiscal, Management and Property:

- ☐ administrative support
- ☐ tax examination
- ☐ accountants

3. Class Series (Job Family): Specific job families are organized in a "job series". Specific duties and class specifications are similar, but with different and progressive levels of complexity, qualifications, or responsibilities. Job families generally include an entry level, a journey level, and a senior level, such as Accountant A, B, and C.

CLASS SPECIFICATION

The class specification describes the job in general terms. It can describe similar positions in the same class even if the specific duties vary from one position to another.

A class specification is drafted from information contained in the *Request for Classification Action PER-10* form, which is used to evaluate a particular position or allocate it to a class. The class specification contains the following types of information:

- ☐ Definition of the general role of the job including the location and the nature of supervision.
- ☐ Nature and level of duties typically performed, including the types of tasks and degree of supervision required.
- ☐ Knowledge, Skills, and Abilities (KSA's) generally needed to perform those duties at a fully satisfactory level.
- ☐ Environmental factors typically encountered by positions in the class, e.g.. use of equipment, location of work, risks, or hazards.
- ☐ Minimum qualifications of education and experience required to apply for a job in the class.

The class specification need not include every task required in each position and may also include some tasks not found in some positions.

The Department of Personnel is responsible for maintaining a current class specification for each position and revising it as changes are noted. Proposed revisions may be submitted at any time. When a department requests a new class, the proposed class

specification will be reviewed by the Department of Personnel. Any proposed revisions are discussed with the agency/department before they are finalized.

The class specification is an important component for establishing individual performance evaluation standards. It identifies the skills and abilities required for the job, and the primary duties and tasks performed by class incumbents.

APPLICABILITY TO EXEMPT EMPLOYEES

Certain positions exempted by statute from the classified service may be assigned to the classified pay plan only for salary administration. In such cases, the Department of Personnel will conduct its review and assignment to pay grade in a manner similar to that used for classified positions.

POSITION EVALUATION SYSTEM

Number 6.1

Effective Date: March 1, 1996

Subject: POSITION EVALUATION SYSTEM

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The State utilizes a single point-factor comparison method of job evaluation known as the Willis Position Evaluation System for purposes of internal position alignment and assignment of positions to salary ranges. Positions are assigned to pay grades and salary ranges based on a scale of values against which job evaluations of individual positions are compared.

Internal equity is maintained by using the same point-factor comparison method for all job evaluations and using the same method for assigning position classes to the established pay grades. This relative ranking among positions establishes the comparability between positions and the relationship of relative worth across the system.

The Position Evaluation System is applied to all positions except those exempted by 3 VSA 311, or exempted by any other provision of law.

DEFINITIONS

POSITION - a group of current duties and responsibilities (constituting a job) which normally requires the full-time or part-time employment of only one person.

PAY GRADE - one of the established salary ranges within the total classified pay plan for which a minimum and maximum rate is established. Each class is assigned to a pay grade.

GENERAL GUIDELINES

Position Evaluation Method - Jobs are evaluated by considering the actual requirements, duties, and responsibilities assigned to a particular position by the appointing authority. The position is the basis for classification, not the character or performance of the employee.

The occupation or type of work, the level and complexity of work assigned, the responsibilities expected, and the placement of the position in the organization are critical elements in job evaluation.

Jobs are evaluated on the basis of the skills and duties required as a normal part of the job. Position evaluation is not based on the volume of work assigned or the quality of the incumbent's performance. It is not a method of rewarding longevity or competence.

Willis Position Evaluation System - The State of Vermont implemented the Willis Position Evaluation System in 1986.

This system establishes eleven (11) components of a job to be evaluated independently. A job evaluator or job evaluation committee must determine the level of the job duties within these separate evaluation categories. Rating points are awarded according to a set value designated for each level. Total points for all eleven (11) components determine the assignment of a class to a pay grade. The ranking of pay grades is also based on total points and their relative progression.

The eleven (11) categories within four (4) fundamental areas are as follows:

1. KNOWLEDGE AND SKILLS:

- ☐ Job Knowledge - the amount of specialized or technical knowledge required by the job which include familiarity with facts and procedures; manual skills; capacity to organize and supervise events; knowledge of one or more profound or serious disciplines.
- ☐ Managerial Skills - the nature and complexity of the management process required in the job to exercise management principles such as planning; organizing; executing; and, controlling and evaluating activities, functions and subfunctions.
- ☐ Interpersonal Skills - the direct people contact or human relations skills required of a job and the extent to which the job must be able to establish rapport with, empathize with, and influence the actions of others.

2. MENTAL DEMANDS:

- ☐ Independent Judgement - the opportunity for critical thinking permitted by the job's characteristics and role in the organization and the amount of structure and guides available, or lack thereof, in dealing with problems.
- ☐ Problem Solving - the nature and complexity of the problems the job encounters and must solve considering: the amount and depth of analysis the job is required to

perform; the nature of the problems to be solved and the complexity of the data; and, the extent of valuative, innovative, or creative thinking required.

3. ACCOUNTABILITY:

☐ Freedom to Take Action- the existence or absence of personal or procedural restraints or the degree of latitude the incumbent has to do the job.
☐ Size of Impact - the size of the end results (normally expressed in terms of annualized dollar amounts) the job most clearly is designed to have an impact on and the extent of accountability for those end results. It represents the job's most significant influence upon the organization.
☐ Nature of Impact- the type of accountability a job can have on a chosen end result.

4. WORKING CONDITIONS:

☐ Effort- the amount of intellectual and/or physical energy expended on the job, without regard for the size, strength, stamina or gender of the individual employee.
☐ Hazards- the relative exposure to potential physical or mental bodily injury is evaluated whether caused by accident, illness, other physical harm, or developed as a chronic condition directly related to the job's physical or stressful environment assuming the normal use of protective clothing and observance of safety precautions.
☐ Discomfort- job conditions which would normally be perceived as disagreeable by employees including the degree and extent of disagreeableness assessed considering mental, as well as physical.

APPLICABILITY TO EXEMPT EMPLOYEES

Certain positions, exempted by statute from the classified service, may be assigned to the classified pay plan for salary administration purposes. In such cases, the Department of Personnel will conduct its review and assignment to pay grade in a manner similar to classified positions (See Number 6.2, Classification Review).

CLASSIFICATION REVIEW

Number 6.2

Effective Date: March 1, 1996

Subject: CLASSIFICATION REVIEW

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It is the policy of the State of Vermont that each classified position in State government be assigned an appropriate class title, pay grade, overtime category, bargaining unit determination, management level, Equal Employment Opportunity (EEO) Category, and Fair Labor Standards Act (FLSA) category. This policy outlines practices and procedures necessary to ensure that individual positions, or groups of positions, are routinely reviewed and updated consistent with the maintenance of a single State Classification Plan.

A review may be initiated by either the Department of Personnel, managers within a department or agency, or individual employees. In addition, the Vermont State Employees' Association, Inc. (VSEA) may (with the Department of Personnel's approval) submit a request for class action review on behalf of employees in the same position class by submitting a single filing of the same information.

The evaluation standards and process for reviewing a position are the same regardless of who initiates the request.

DEFINITIONS

CLASSIFICATION REVIEW - the process to determine whether an individual position, or any group of positions, is correctly allocated to a class, and/or the class is correctly assigned to pay grade.

POSITION DESCRIPTION - the job content questionnaire, *Request for Classification Action PER-10* (See Attachment A) form which is the primary document used for job evaluation and allocation to a class. It contains information describing a specific position: i.e., the specific duties of a position, nature and scope of supervision, job

difficulty, financial impact, specific skill requirements, interaction with colleagues and clients, placement within the organization, working conditions, and other information relevant to the evaluation of the job.

NOTICE OF ACTION (NOA) - An official document used by the Department of Personnel, Classification Unit to identify and describe changes to a position and the status of incumbents (See Attachment B). These changes may include items such as title, bargaining unit designation, management level, overtime category, FLSA designation, EEO category, position type, and pay grade. The NOA is the instrument which notifies departments and the VSEA of position changes, including positions newly created, abolished, or transferred.

EMPLOYEE NOTICE - A form used by the Classification Unit to notify employees of the result of a classification review (See Attachment C). It may include changes in job evaluation rating, title, pay grade, bargaining unit designation, management level, and overtime category. The collective bargaining agreement requires that this notice "will respond directly and pointedly to the specific reasons listed in the request for review and will specify any change in the point factor rating for that position."

GENERAL GUIDELINES

The Classification Review Article of the current Agreements between the State of Vermont and the VSEA must be adhered to when implementing this policy.

The following general guidelines describe when a classification review may be appropriate:

- ☐ When there has been a significant change in duties or responsibilities. The job should measurably have more or less difficulty, complexity, accountability, or responsibility as a result of the change in duties.
- ☐ When there has been a significant change in job knowledge and skill requirements, managerial skills, mental demands, problem solving requirements, accountability for results, or adverse working conditions.
- ☐ The addition of duties may in itself justify a change in classification if those duties are at a higher or lower level than previously assigned, or require an entirely new area of knowledge or responsibility. The withdrawal of duties also may justify a change if the remaining duties are at a level significantly lower than those on which the position was previously evaluated. A review may be appropriate if duties are transferred from one position to another and may also require the review of several related positions.

The following general guidelines describe when a classification review may not be appropriate:

- ☐ When an employee takes on duties not previously performed by that employee, but which are already reflected in the position description. Employees need a period of time to perform all aspects of a job requirement at the level at which the job is already

classified. Duties that are new to the incumbent employee may already be included in the overall classification of a job and described in the applicable class specification.

- ☐ When positions naturally increase in complexity over a period of time. Changes in job requirements are necessary to keep pace with changes in government, society, and technology. This evolutionary change is expected to occur within the classification of a job and should not be the primary basis for requesting a review.
- ☐ When accounting for any of the many factors which have no bearing upon the classification of a position including: performance; qualifications of the incumbent employee; length of time in service, class, or pay grade; volume of work; and federal grants recommendations.

FILING A REQUEST FOR REVIEW

Requests for classification review are initiated by completing a *Request for Classification Action PER-10* form. The request may be initiated by an employee, a supervisor, a manager, the agency/department head, the Department of Personnel, or in the case of an approved class action request, by the VSEA.

In addition to describing the content of a position's duties, the *Request for Classification Action PER-10* form shall also detail the changes in duties or other circumstances which prompt the request. Employee initiated requests are submitted to the supervisor. Within ten (10) work days the supervisor must complete his or her response. Within five (5) more work days the request must be reviewed for accuracy by the personnel officer and the appointing authority and forwarded to the Department of Personnel.

Upon receipt of a request, the Department of Personnel, Classification Unit, will review it for completeness. Incomplete requests will be returned to the person who originated it with instructions for its completion and return. Completed requests will be logged in with the date of receipt and assigned for review.

The Department of Personnel will review and respond to completed requests usually within sixty (60) days for a single position request, and within ninety (90) days for multiple position class requests. The response will be in the form of an EMPLOYEE NOTICE (refer to definition section) detailing the results of the review and any applicable changes made to a position.

CONCURRENT FILING OF A REQUEST BY AN EMPLOYEE

An employee may initiate a review by filing a copy of the *Request for Classification Action PER-10* form directly to the Department of Personnel, Classification Unit, while concurrently submitting the original request to the supervisor. This dual filing ensures that the effective date of any corrective action will not be delayed should the review by the supervisor or appointing authority be delayed. The effective date of any resulting pay adjustments will be the first full pay period following the day the completed request was received in the Department of Personnel, plus fifteen (15) days. This additional

fifteen (15) days is to allow time for the agency/department to conduct its review and approval.

WITHDRAWAL OF A REQUEST FOR REVIEW

The originator of the request for a classification review may ask that it be withdrawn by submitting a written statement to the Classification Unit with specific reasons for the request. The Department of Personnel, Classification Unit, will notify the originator in writing whether the request to withdraw the review is approved or denied.

Reviews are automatically terminated if the position becomes vacant after a request is filed.

TEMPORARY REALLOCATION

A department may request that a reallocation of a position be made on a temporary basis. This reallocation may occur during a specified time frame such as a pending recruitment, reorganization, filling in for the absence of another employee, seasonal duties, or similar reasons. A temporary reallocation cannot be less than a full pay period and should not last longer than one (1) year. With the approval of the Department of Personnel, temporary reallocations may be made permanent when the period and purpose for the temporary change has expired. In such cases, employees are credited for the time in a temporary reallocation towards the completion of a promotional probationary period.

JOB AUDIT

The purpose of an audit is to obtain additional information regarding the job duties or to clarify information contained in the position description questionnaire. The primary source of information about a specific position is the *Request for Classification Action PER-10* form. The Department of Personnel may, at its discretion, also conduct job audits as necessary.

The audit may include personal or telephone interviews with the employee, supervisor, personnel officer, or manager, and may include reviewing additional documentation and work samples to support the request.

Interviews with co-workers or supervisors may reveal a need to review other positions within the organization, especially those positions which have some relationship with the position under review or where the reporting relationship has undergone a change.

JOB EVALUATION

The Department of Personnel will review the *Request for Classification Action PER-10* form and any audit results to determine the appropriate classification for a given job. This review may also include a revised point factor rating of the position which may be

completed by an individual job evaluation analyst; a team of job evaluation analysts; a job evaluation committee; or a management committee. A management committee consists of agency/department managers, a personnel officer, and a job evaluation analyst from the Department of Personnel.

NOTIFICATION TO AGENCY/DEPARTMENT AND EMPLOYEE

Once the Department of Personnel has made a preliminary decision regarding the classification of a position, it is conveyed informally to the personnel officer or (if applicable) directly to the department manager. The agency/department is invited to comment on the decision and offer any additional information or to discuss the preliminary decision with the classification unit. When the final decision is made, the personnel officer is informally notified.

After the decision is finalized, the Department of Personnel issues the *Employee Notice* to the employee which explains the decision and any changes made to the position.

NOTICE OF ACTION (NOA)

The Department of Personnel issues a *Notice of Action* which is the system's official notice and official record of the classification decision and any changes made to the position. Copies are sent to the agency/department, and to the VSEA. Any final decisions made with respect to the status of a particular position and/or class are reflected in the *Notice of Action*.

INFORMAL MEETING

Within ten (10) work days of receipt of the *Employee Notice*, an employee may request an informal meeting with a staff member(s) of the Department of Personnel, Classification Unit, to discuss the decision. Efforts will be made to hold this meeting within fifteen (15) work days of the request, as outlined in the current collective bargaining unit agreements.

The purpose of this meeting is to allow the Department of Personnel to explain the rationale for the decision and to answer any questions the employee may have regarding the Position Evaluation System. At the conclusion of the informal meeting, the Department of Personnel may consider information discussed at the meeting and may reconsider the decision. Before making any subsequent changes, the employee's agency/department will be informally notified and be given the opportunity to review the tentative change.

At the conclusion of the informal meeting or any subsequent review, the employee will be notified in writing of the outcome. This notice concludes the informal meeting procedure.

CLASS SPECIFICATION CHANGES

If a new class is created as a result of a review, the specification may be included with the *Employee Notice*. If a change in a class specification results from a review, that change will normally be made within thirty (30) days of the final decision, and a copy sent to the affected employee. In cases where the employee is reallocated to another existing class, a copy of the specification for that class will be attached to the *Employee Notice*.

CHANGES AFFECTING EMPLOYEES

Effective Date of Corrective Action - As outlined in the current collective bargaining agreement(s), if there is a change in the status of a position as a result of a classification review (or classification grievance, if applicable), any pay adjustment will begin no earlier than the start of the first pay period following receipt of the completed request for classification review logged in at the Department of Personnel. If the Department of Personnel determines that circumstances giving rise to the corrective action came into existence after the appropriate filing date, the action shall be effective on the first pay period following that later date.

Under no circumstances may the effective date be retroactive to a date earlier than that of the filing.

Pay adjustments only affect incumbents in the position at the time the *Notice of Action* is issued. An exception to this applies to employees who were incumbents at the time the request was filed, and who remain active employees in the classified service when a final action is taken to reassign a class to a higher pay grade.

Corrective action may include adjustments to base pay, overtime compensation, compensatory time, personal leave categories, and EEO categories.

Pay Adjustment - Base pay adjustments are governed by the terms of the Salaries and Wages article of the collective bargaining agreement.

If the change results in movement to a higher pay grade, the salary adjustment shall be calculated as a promotion.

- ☐ If the change results in movement to a lower pay grade, and the change is imposed by management through no fault of the employee, the employee's salary will not be reduced. The salary of employees with less than three (3) years of service is limited to the maximum of the new pay grade.
- ☐ If the change results in a reallocation to a class in a lower pay grade and the change was voluntary, the salary adjustment shall be calculated as a voluntary demotion.

Overtime adjustments will also be corrected retroactively to the effective date of the corrective action. However in the unusual circumstance where an employee's overtime category is changed from a time and one half cash category (overtime category 11 or

12) to a straight time compensatory time-off category (overtime category 17 or 18), or vice-versa, an adjustment will be made only for the half-time premium.

Promotional Probationary Period - Employees whose positions are reassigned to a higher pay grade will be required to serve a promotional probationary period. Subsequent salary adjustment will depend upon whether such a period is satisfactorily completed.

If the review determines that the employee has served at the higher level class for a period of eighteen (18) months or longer, this provision will be waived.

Meeting Minimum Qualifications - Prior to reallocating a position, the incumbent of the position must meet the minimum qualifications of the new class (including any performance exams). The effective date of a reallocation may not be retroactive to a date earlier than the incumbent's meeting the position's minimum qualifications. If the review determines that the employee has served at the higher level class for a period of eighteen (18) months or longer, then meeting the minimum qualifications is waived.

Original Probationary Period - When a position is reallocated, incumbent employees who are serving an original probationary period will be required to start the new original probationary period over.

An original probationary period is not interrupted if the only change in the class is its reassignment to a higher or lower pay grade.

Employees at step 1 will go to step 1 of the new pay grade. Employees hired above step 1 will be placed on the step in the new pay grade closest to, but not lower than, their current rate.

RIF Reemployment Option - If a downward reallocation results from a reorganization or a management decision to substantially change the employee's job duties, the employee will be so notified through the *Employee Notice*. The employee may elect certain options of limited recall rights as outlined in Section 23 of the applicable Reemployment (RIF) article of the current collective bargaining agreement. The Department of Personnel, Classification Unit, may send a copy of the *Employee Notice* to the VSEA when this occurs.

MISCELLANEOUS

Review Process for New or Vacant Positions - The *Request for Reclassification Action PER-10* form is also the vehicle for requesting the allocation to a class for a new position or for changing a vacant position and the general procedures outlined above apply. The department must submit a *Request for Reclassification Action PER-10* form describing the duties of the proposed job to the Department of Personnel. Once the Department of Personnel completes its review, the department submitting the request will be notified of the decision and given the opportunity to discuss it with the

Classification Unit prior to the final issuance of the *Notice of Action*. If a department is requesting the creation of a new class, it must also submit a proposed class specification as part of the review.

The Department of Personnel, Classification Unit, may elect to waive the requirements for a completed *Request for Reclassification Action PER-10* form in the following circumstances:

- ☐ when a department requests to have a vacant or new position allocated to an established class within that department and a significant number of positions in that class already exist there; and
- ☐ when a department submits a memorandum affirming that the duties of the new position have not changed.

BARGAINING UNIT DESIGNATION

Number 6.3

Effective Date: March 1, 1996

Subject: BARGAINING UNIT DESIGNATION

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this policy is to define the bargaining unit designations of employees in the Executive Branch of Vermont State Government, and to establish applicable policies and procedures for making these designations.

Under the provisions of Chapter 27 of 3 VSA (annotated) most employees within the classified service may bargain collectively and are eligible for union representation within separate and distinct collective bargaining units as established by the Vermont Labor Relations Board (VLRB).

It is the policy of the State that each position shall be designated to the appropriate collective bargaining unit, as defined herein.

By law, managerial, confidential, and certain other specified employees, are specifically excluded from collective bargaining and/or membership in a bargaining unit.

DEFINITIONS

COLLECTIVE BARGAINING UNIT - *"the employees of an employer, being either all of the employees, the members of a department or agency or such other unit or units as the board may determine are most appropriate to best represent the interest of employees."* See 3 VSA 902(3).

MANAGERIAL EMPLOYEE - *"an individual finally determined by the board as being in an exempt or classified position which requires him* [or her] *to function as an agency, department, or institution head, a major program or division director, a major section chief or director of a district operation."* See 3 VSA 902(18).

SUPERVISORY EMPLOYEE - *"an individual finally determined by the board as having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment."* See 3 VSA 902(16).

CONFIDENTIAL EMPLOYEE - *"an employee finally determined by the board as having responsibility or knowledge or access to information relating to collective bargaining, personnel administration or budgetary matters that would make membership in or representation by an employee organization incompatible with his official duties."* See 3 VSA 902(17).

STATE POLICE UNIT - the bargaining unit as determined by the VLRB which includes all non-supervisory personnel who are sworn members of the State Police at or below the rank of Sergeant.

CORRECTIONS UNIT - the bargaining unit as determined by the VLRB which includes all non-supervisory personnel employed by the Department of Corrections, with the exception of those employees with an official duty station located at the administrative central office.

DESIGNATION - the assignment of a classified position to a particular bargaining unit or other category in accordance with the statutory provisions and determinations of the VLRB.

GENERAL INFORMATION

The VSEA Recognition Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) must be adhered to when administering this policy.

The Department of Personnel makes bargaining unit designation determinations when positions are created or reclassified, or when a designation review is warranted.

The criteria used to determine a **managerial** designation include:

- ☐ the extent to which a position has influence or makes decisions regarding policy, budget, and personnel; and
- ☐ the organizational structure of a particular agency or department into divisions or major sections.

The criteria used to determine a **supervisory** unit designation include:

- ☐ the number of employees supervised;
- ☐ the degree and type of supervisory discretion exercised; and

☐ the extent to which supervision is a significant component of the individual's job duties.

The criteria used to determine a **confidential** designation include:

☐ access and relationship to information regarding employees' compensation, job classification, grievances, or personnel records.
☐ extent to which the position exercises influence on personnel administration, personnel policy, or budgetary matters within the organization.
☐ non-routine access to policy and personnel matters affecting the outcome of matters subject to collective bargaining or grievances.

Personnel designated as managerial or confidential are not assigned to a bargaining unit.

Supervisory personnel who are not determined to be confidential shall be assigned to the Supervisory Bargaining Unit. Non-supervisory personnel and positions not determined to be confidential shall be assigned to the Non-Management Bargaining Unit or, if applicable, to the State Police or Corrections Bargaining Unit.

Class title or position classification are not the sole determinants of the designation. There are limited instances where employees may be allocated to the same class but designated to a different bargaining unit. For example, one employee may be designated non-management while another employee in the same class is designated supervisory.

COLLECTIVE BARGAINING AGREEMENT

The State of Vermont recognizes the VSEA as the exclusive representative of Vermont State employees in the following bargaining units: Non-Management, Supervisory, Corrections, and State Police.

The Department of Personnel shall notify the VSEA of all changes in bargaining unit designations and the designations of newly created positions. The Department of Personnel will mail a copy of the *Notice of Action* form denoting a change in bargaining unit designation to the VSEA fifteen (15) days before notifying an affected employee. This notice is necessary for: new classes created as managerial, confidential, or supervisory; or for filled positions whose designation changes without a change in classification. In these two (2) instances the notice includes copies of the documents used to make the determination, such as:

- organizational charts;
- class specifications, if available, and not previously provided.
- An employee whose designation changes for reasons other than a reclassification will be notified with a brief explanation of the decision and a statement explaining the employee's right to appeal the change to the VLRB.

The classification review of a position sometimes requires a change in its bargaining unit designation. Moving an employee from one bargaining unit to another affects which collective bargaining unit agreement will apply to that position. An employee designation will not be changed to the Supervisory Bargaining Unit unless there has been a change of duties.

APPEAL

A bargaining unit designation decision may be appealed to the VLRB in accordance with the rules of the Board.

DECENTRALIZED REALLOCATION

Number 6.4

Effective Date: March 1, 1996

Subject: DECENTRALIZED REALLOCATION

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It is the policy of the State of Vermont to delegate authority to agencies or departments to reallocate positions within certain specified classes.

The appointing authority determines that the duties assigned to a position correspond to the duties of the specific class, and makes those position reallocations with notification to the Department of Personnel.

This policy outlines the process for making position reallocations, and identifies the roles and responsibilities associated with this delegated authority.

This authority is limited to routine actions and to only those classes listed in Attachments A and B of this policy.

This policy does not apply to temporary reallocations which require prior approval from the Department of Personnel, Classification Unit.

DEFINITIONS

REALLOCATION - changing a position from one class to another class. A typical example is an employee hired into a trainee class who after completing the requisite experience or training requirements, moves to a full-class level within a job family or class series.

CLASS - a grouping of one or more positions that are sufficiently similar in the duties performed; degree of supervision exercised or received; minimum requirements of training, experience, or skill; and other characteristics. These similarities allow the same title, test of fitness, and pay grade to be applied to each position.

AUTOMATIC REALLOCATION - a position is routinely reclassified to a higher level with an effective date consistent with the requirements outlined in the class specification (See Attachment A).

TRAINEE - a position whose incumbent does not meet the minimum qualifications for the full level position, but may do so after additional training and experience. The incumbent may also be designated a trainee if that person is hired to perform a limited portion of the duties of the position, or has special supervision requirements.

GENERAL GUIDELINES

Decentralized reallocations, some of which are automatic, apply when an employee moves from one designated class to another without submitting a formal *Request for Classification Action PER-10* form and without advanced approval by the Department of Personnel. Automatic Reallocations are found in Attachment A. In such cases, the appointing authority must certify that the position incumbent:

- ☐ has satisfied all required minimum training and experience requirements for the higher class;
- ☐ has successfully completed any in-service required training for movement to the higher level class;
- ☐ has qualified on any required promotional examination;
- ☐ is currently performing the duties of the higher level class.

Individual departments may elect to use additional internal criteria or measures as a condition for moving to the higher class level including: required performance evaluations, interviews, peer review, and management team reviews.

The appointing authority (or designee) submits a request to reallocate a position certifying the established criteria has been met to the agency/department personnel officer who forwards it to the Department of Personnel for implementation.

When positions at a higher level class are vacant, they may be reallocated to the lower class prior to recruitment without formal approval from the Department of Personnel.

Employee advancement to the higher level class is only automatic if the class is on the automatic list of designated classes (See Attachment A). Time spent at a particular level is usually only one of several departmental criteria which should be satisfied before advancement. No advancement occurs unless the class specification criteria are met.

ADMINISTRATIVE RESPONSIBILITIES

1. **Appointing Authority and Department Managers** - are responsible for establishing decentralized reallocation review criteria and developing mechanisms to ensure that these criteria are applied in a consistent and timely

manner. Reallocation criteria and review procedures should be clearly articulated and shared with employees.

2. **The Agency/Department Personnel Officers** - are responsible for administering the reallocation of positions consistent with the protocol issued by the Department of Personnel, Classification Unit, and the articles outlined in the current collective bargaining agreements. Documentation should be maintained regarding the employee's eligibility, such as promotional examination results, and verification that the employee is performing the duties of the higher level class and when the employee began performing at the higher level.

   When an employee is reallocated to a higher class, the personnel officer notifies the Department of Personnel by issuing the standard personnel action with any required documentation.

3. **The Department of Personnel, Classification Unit** - is responsible for:

- ☐ Determining which classes are eligible for decentralized reallocation, and updating the list of eligible classes semiannually.
- ☐ Revising class specifications to ensure that the criteria are current and meet the needs of agencies and departments.
- ☐ Concerns about decentralized decisions received from employees.
- ☐ Conducting periodic reviews with department managers to ensure that the provisions of this policy are understood and administered consistently. Working protocols will be developed to ensure that the same standards as the normal classification review process are applied.

4. **The Department of Personnel, Quality Control Unit** - is responsible for:

- ☐ Maintaining the computerized data base for position changes and employee status changes.
- ☐ Entering position changes to the data base when requested by department personnel officers.

5. **Employees' Supervisors** - are responsible for ensuring that employees are aware of criteria and internal review mechanisms for decentralized reallocation.

6. **Employees** - are responsible for meeting all the necessary requirements of a position, and notifying their personnel officer or the Department of Personnel, Classification Unit, if the reallocations are not made.

EFFECTIVE DATES

1. **Automatic class reallocations** - The effective date for pay or status adjustments for those classes listed in Attachment A will be the first day of the next full pay period following completion of the requirements for automatic reallocation.

2. **Decentralized reallocations** - Pay adjustments will be effective on the first day of the pay period following the date the appointing authority issues a written notification and request to the personnel officer. The request must certify that criteria for the higher level have been met.

   If the department personnel officer determines that the criteria for reallocation were met at a date later than that requested by the appointing authority, then the later date will be the basis for any pay adjustment.

   The provisions of the current collective bargaining agreements governing pay adjustments apply to those classes where the agency/department head has been delegated the authority to implement decentralized reallocation.

NOTE: Employees may initiate a concurrent filing for classification review to avoid disputes regarding retroactivity by sending a request to the Department of Personnel. The request should verify that they met criteria required by the classification specification and the department's internal standards for the position change.

INTERNSHIPS

Number 6.7

Effective Date: May 15, 2002

Subject: **INTERNSHIPS**

Applicable To: Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

This policy establishes guiding principles regarding internship practices and procedures within Vermont State government. The purpose of the internship program is to promote careers in State government by providing students with an opportunity to use their skills and knowledge in a practical setting for academic credit and professional experience and to showcase the career opportunities available in State government.

DEFINING AN INTERNSHIP PROJECT

Internships are short-term, part-time and, frequently, unpaid arrangements. Specific projects producing specific products are more suitable for internships than more generalized work.

Work plans defining the scope of the project, the time frame, the internship goals and objectives and the knowledge, skills and abilities needed to do the work should be developed prior to posting the internship opportunity on the bulletin board posted on the Department of Personnel's web address. There is a section called the Academic Bulletin Board, which lists all the colleges and universities in Vermont and the individual departments and contact persons who are interested in internship opportunities for their students.

FINANCIAL ARRANGEMENTS

Most academic internships are unpaid. If you have the resources and wish to compensate an intern, temporary employment can be arranged using a "Request for Temporary Position" which can be found in the "Forms" section on the Virtual Library on the Department of Personnel's home page. All paid interns are to be coded as Pay Grade 05 and can be paid at any step level on the pay grade 05 scale usually based on

experience. For more detailed information about other types of procedures regarding internships, please visit the Internship page on the Department of Personnel's website.

WORK PLANS

The key participants in an academic internship arrangement are the student, the State government supervisor and the educational institution. Internship expectations should be well understood by all participants and a written work plan or contract is generally created describing the goals, activities, outcomes, evaluation processes and the time frame. Initial contact with the educational institutional student advisor is helpful as well as throughout the internship period.

EVALUATION

The student or the institution will generally provide internship evaluation forms to the supervisor if they require it as part of their internship program. Schools expect thoughtful evaluations to be submitted for timely filing of grades.

Section 7

PERFORMANCE MANAGEMENT SYSTEM

Number 7.0

Effective Date: March 1,1996

Subject: PERFORMANCE MANAGEMENT

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It is the policy of the State of Vermont that employees have written performance standards from which managers and supervisors can evaluate their job performance. It is the State's goal that these performance standards will be in writing.

The mission of Vermont State Government is to provide essential services to the citizens of the State. Meeting this commitment requires that all State employees and managers perform their jobs as capably as possible.

A fundamental management responsibility is the planning, observation, evaluation, and development of employee job performance. Taken together, these activities constitute the process of Performance Management.

Annual performance evaluations are to be completed for all classified employees on the anniversary date of the employee's completion of original probation, or on the anniversary date of restoration, or reduction-in-force rehire to State service. The Performance Evaluation Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. must be adhered to when implementing this policy.

GENERAL GUIDELINES

The objectives of performance management are to:

- Improve communication between supervisors and employees.
- Encourage employee growth and development.
- Improve job performance and day-to-day performance management.
- Promote the fair, consistent treatment of all employees.
- Provide adaptability and flexibility.

Performance Management provides an effective way to influence and evaluate the work performance of employees. Clear job expectations and responsibilities can be established in relation to organizational goals and objectives. Continuous feedback results in improved communication between employees and supervisors.

It is important for managers and supervisors to provide feedback to employees on their performance, and when necessary, to point out specific ways in which performance that has been deficient may be improved (See Number 8.0, Disciplinary and Corrective Action).

For more details and guidelines on the Performance Management Process, see *A Guide to the State Performance Management System* (See Appendix C).

RESOURCES

Performance Management is a fundamental responsibility of managers and supervisors. The planning, observation, documentation, review, and development of employee job performance is essential to a productive agency/department. Managers and supervisors might need to acquire new skills or gain confidence as effective participants in the Performance Management System. Various resources are offered through the Vermont Learning Center to help managers and supervisors acquire these skills. Consult the semi-annual *Vermont Learning Center Course Catalog* for course listings such as: Performance Management; Supervising Under the Contract; and Interviewing and Hiring.

EMPLOYEE RECOGNITION AND MERIT BONUS AWARDS

Number 7.1

Effective Date: December 15, 1995

Subject: EMPLOYEE RECOGNITION AND MERIT BONUS AWARDS

Revised Date: September 18, 2001

Applicable To: All Classified employees and Exempt employees who are not covered by Policy 7.2 or included in an approved Exempt Pay Plan, and who are employed by the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT:

While it is appropriate to compensate all employees in a fair and consistent manner, the State recognizes that some employees perform at a higher than satisfactory level by either doing significantly more than what is normally expected of the position, by working on special projects of major importance in addition to assigned duties and responsibilities, or by performing their regular duties at a level that far exceeds expectations. The use of merit and bonus awards is a positive way to inspire excellence in performance and an appropriate way to reward those employees who contribute beyond expectations.

The State of Vermont encourages the establishment and active use of employee recognition programs to recognize and celebrate excellence in State government by outstanding individuals and groups with the goal of not only increasing the effectiveness of State government, but also of enhancing the career satisfaction and growth of committed state employees.

GENERAL GUIDELINES:

Agencies/departments are encouraged to be creative in developing employee recognition programs. Merit policy design is left to the discretion of the agency/department, within the general guidelines of the State of Vermont Statutes, this policy, and the Outstanding Performance Article of the VSEA contract. Agency/ departmental heads are accountable for insuring that their merit programs are implemented and maintained in compliance with the original intent of the program as

outlined in the Purpose and Policy statement above. ***New agency policies and revisions to existing policies must be approved and on file with the Department of Personnel.***

Merit awards generally fall into three (3) categories: step increases; non-recurring bonuses; and other forms of recognition (such as days off, letters of commendation, plaques, etc.) which may be more appropriate in certain circumstances or for some employees.

Individual award programs should not be construed as establishing automatic or mandatory increases for attainment of certain ratings on performance evaluations.

All employee recognition and monetary award programs should address the following:

- The role of an agency / department merit award committee. How an agency/department utilizes a merit award committee structure is left to their discretion, subject to the guidelines of this policy and the VSEA contract.
- Specific criteria for which an employee may be nominated.
- Procedure for nomination for award. (who may nominate, what forms to use, how to initiate a nomination).
- Guidelines for merit increases. (types of awards, amount, performance criteria).
- Guidelines/timelines for policy review and revision.
- Documentation and reporting procedures/requirements.
- A description of how the program guidelines will be communicated to the agency/ departmental employees.

MAJOR TYPES OF AWARDS:

NON-RECURRING BONUS – These are lump sum or cash-equivalent awards granted on a one-time basis that do not alter the current hourly rates of employees. The use of bonuses is appropriate for special recognition of exceptional performance on a special project or other short- term (i.e. less than 12 months) activity of major importance to the department. The agency/departmental policy should include specific performance and documentation requirements that must be met for approval of a non-recurring bonus. Non-recurring bonuses cannot exceed 8% of the annualized base salary of the employee. (** see note below).

MERIT STEP INCREASE – These increases are permanent adjustments to salary that advance the step level of the employee by one or two steps. Step increases may be appropriate when faster than normal salary advancement is warranted due to sustained, long-term (i.e. 12 months or more) performance that significantly exceeds all standards. The agency/ departmental policy should include specific performance and documentation requirements that must be met for approval of a one or a two-step increase. Step increases may not in any case exceed two steps. (** see note below).

NOTE: ** The granting of any award for Outstanding Performance is subject to compliance with the Outstanding Performance Article of the Agreements between the State of Vermont and Vermont State Employees Association, Inc (VSEA). No individual employee may receive more than one "small" bonus (up to and including $1,000) and one "large" merit bonus (over $1,000 or a step increase) in a single year without the prior approval of the Commissioner of Personnel.

MERITORIOUS AWARD COMMITTEES:

The Outstanding Performance Article of the current Agreements between the State of Vermont and the VSEA provides that **"Each department/agency which does not have a functioning performance review process, shall form a performance policy committee including not more than three agency employee members selected by the VSEA. The committee may give input on the agency's outstanding performance policy criteria. Not more than three agency employees selected by the VSEA may give similar input to department/agency panels which exist on the effective date of this Agreement".** Committees comprised of labor and management representatives may be utilized to give input on the agency performance policy criteria and/or they may actually take an active role in examining and recommending individual merit awards. Each agency's policy should clearly outline the role of their committee. Committees comprised of both labor and management representatives are generally more accepted than committees consisting only of management representatives.

The merit award committee shall meet as defined in the agency merit policy. If the committee is responsible for reviewing nominees, specific criteria should be established which will serve as a guide in the committee's evaluation of nominations. (see below).

SUPPORTING DOCUMENTATION:

The agency/departmental policy must clearly define what type of documentation is required as support for the various types of awards being granted. The following documents are recommended as supporting documentation:

- A copy of the performance evaluation for the period of time being recognized by the award;
- Comments and recommendations from the employee's supervisor, manager, appointing authority, and /or, as applicable, the department merit award committee;
- Any other material or information that supports the award being recommended.

SUBMITTING FOR PAYMENT / GRANTING OF AWARD:

The Agency Personnel Officer/Administrator or their designee should submit a fully completed Personnel Action Form outlining the type/amount of the approved award to the Department of Personnel so that the employee may receive their merit bonus as quickly as possible.

EFFECTIVE DATE OF AWARD:

The effective date for merit step increases will be the first day of the new payroll period following receipt of a completed Personnel Action Form by the Department of Personnel from the agency granting the award.

DELEGATION OF AUTHORITY FOR AWARDS:

To insure more timely and efficient processing of merit awards, the Commissioner of Personnel has delegated to agency secretaries and department heads, final authority to approve merit awards as outlined in their written and approved agency policy. However, to retain a high degree of consistency and equity among agencies and departments, the following conditions must be adhered to in awarding such bonuses and increases:

1. All requests should be submitted in a timely manner and for the period of time immediately preceding the date of the award.
2. The agency/department must have a written formal procedure that specifies the criteria upon which these awards are based.
3. The agency/department head and/or any other person designated in the agency's policy shall note the decision of the person or group reviewing the nomination on the nomination document.
4. All agency/departmental merit award procedures/policies must conform to Vermont Statute, this policy, and to the current Agreements between the State of Vermont and the VSEA.
5. Awards may only be given for job-related performance. Activities such as quitting smoking, losing weight, physical fitness, etc., are not considered job related for purposes of this policy. However, in order to encourage high levels of professional development, merit awards may be given to employees for educational or professional development, when as a result of that achievement, the employee's demonstrated job performance is measurably improved. For example, a non-recurring bonus may be appropriate for an employee when performance has been enhanced in his or her job as a result of publishing an article in a professional journal, or when an employee has received a degree, which has enhanced his or her job performance.
6. A complete copy of all documentation relating to any award must be filed, once approved, in the employee's official personnel file.
7. The delegation of authority for awards may not be further delegated below the Department Head level unless the guidelines for such have been detailed and approved within the approved agency/departmental policy.
8. Each agency/department will submit a report to the Department of Personnel in July of each year, outlining the merit award activity for the preceding fiscal year. This report will include the names of all employees nominated for merit awards, the nominee's position number, the name of the nominator, the type and amount of requested award, a brief description of the reason for the nomination, and whether the award was approved, denied, or modified. This report should be provided to the Department of Personnel on standardized form #M-001, "Merit

Bonus Log/Report" which is available on the State of Vermont website: www.state.vt.us/library/vlibrary.htm The form may be downloaded as an electronic copy or may be printed and submitted in hard copy format. It is recommended that agencies/departments keep this as an ongoing log of their yearly activity to streamline the process.

9. The Commissioner of Personnel may, at his or her discretion, request a review of the merit policy documents of any agency or department to audit compliance with this policy and/or the agency/departmental policy. It shall be the responsibility of the agency/department to keep clear and complete documentation of adherence to both this policy and their internal merit program and to produce these records and documents upon request of the Commissioner of Personnel.
10. The Department of Personnel must be provided with a current copy of the agency/department policy on this subject by which all merit bonuses granted by an agency or department may be randomly reviewed/audited for conformity to the above. It shall be the responsibility of the agency/department to provide the Department of Personnel with an updated copy in a timely manner upon revision of their policy.

Signed by Kathleen C. Hoyt, September 18, 2001

Approved, Secretary of Administration

MERIT AWARD PROCESS FOR CERTAIN EXEMPT EMPLOYEES

Number 7.2

Effective Date: September 18, 2001

Subject: MERIT AWARD PROCESS FOR CERTAIN EXEMPT EMPLOYEES

Applicable To: Agency/Department Heads, Deputies, Principal and Executive Assistants, and Private Secretaries.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT:

While it is appropriate to compensate all employees in a fair and consistent manner, the State recognizes that some employees perform at a higher than satisfactory level by either doing significantly more than what is normally expected of the position, by working on special projects of major importance in addition to assigned duties and responsibilities, or by performing their regular duties at a level that far exceeds expectations. The use of merit and bonus awards is a positive way to inspire excellence in performance and an appropriate way to reward those employees who contribute beyond expectations.

The State of Vermont encourages the establishment and active use of employee recognition programs to recognize and celebrate excellence in State government by outstanding individuals and groups with the goal of not only increasing the effectiveness of State government, but also of enhancing the career satisfaction and growth of committed state employees.

The purpose of this policy is to define and clarify a process to implement the granting of merit based awards for certain exempt employees as outlined in **32 V.S.A. §1003(b) and §1020(a).** These subsections state that "*In addition to the annual salary adjustment specified in this subsection, the governor may grant a special salary increase or a bonus to any such officer whose job duties have significantly increased, or whose contributions to the state in the preceding year are deemed especially significant. Special salary increases or bonuses granted to any individual shall not exceed the average of the total rate of adjustment available to classified employees under the collective bargaining agreement then in effect.*"

GENERAL GUIDELINES FOR GRANTING MERIT AWARDS:

The total allocation pool of approved funding for this program, as referred to above, is defined and limited for any current fiscal period within the statutory language of the current Pay Act, to be distributed based on outstanding performance as outlined above. Requests for approval of bonuses will be approved based on these criteria. ***However, these merit awards must be funded through the agency budget. The above language simply creates statutory approval for the allocation of these funds for the stated purposes and in accordance with the intent of the program.***

To insure equity and consistency in administering this program, awards must comply with the following guidelines:

1. Any salary adjustments are subject to applicable statutory limits.

2. Award programs should not be construed as establishing automatic or mandatory increases for attainment of certain ratings on performance evaluations.

3. Merit awards may be in the form of non-recurring bonuses or increases in the employee's base salary.

4. Base salary increases or lump sum bonuses may not exceed 8 % of the employee's annual salary in a 12 month period.

5. Employees may not receive more than one merit award in a twelve month period.

6. The immediate supervisor of an eligible employee (as defined above) should submit the following documents to request an award for their employee:

- **Fully completed "*Exempt Salary Approval Form*".**
- **A memo prepared and signed by the immediate supervisor that justifies the proposed merit award as defined in the statutory language above.**
- **Any other supporting information and/or testimonial.**

7. These documents should be addressed to the Secretary of Administration for approval and sent to the Department of Personnel, Classification and Compensation Division, 144 State Street, Drawer 20, Montpelier, VT 05620-1701, to the attention of the State Compensation Administrator. Requests will be evaluated for availability of funding in the current approved pool and for compliance to policy and statutory guidelines. Paperwork will be then be returned with a written explanation.

8. If requestor receives signed approval, a completed Personnel Action should be sent to the Records Unit of the Classification and Compensation Division, as per the usual procedure for such, to initiate the change to the employee's salary or the granting of the lump sum award.

9. Approved awards will become effective on the first day of the next payroll period following approval by the Department of Personnel.

10. The employee should not be informed of the award until a signed approval is returned to the supervisor verifying approval of the request.

Signed by Kathleen C. Hoyt, September 18, 2001

Secretary of Administration

Section 8

DISCIPLINARY ACTION

Number 8.0

Effective Date: March 1, 1996

Subject: DISCIPLINARY ACTION AND CORRECTIVE

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It shall be the policy of the State of Vermont to administer discipline fairly, reasonably and impartially. Employees and the State are best served when discipline is administered to correct actions rather than to punish. Disciplinary action is intended to maintain the efficiency and integrity of State service. Progressive disciplinary actions will generally be used after considering the nature and severity of the offense.

It is the responsibility of each supervisor, personnel officer and appointing authority to evaluate the circumstances and facts as objectively as possible and then apply the most suitable form of discipline. The current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) provide that no bargaining unit employee will be disciplined except for just cause, and they also contain various procedural requirements applicable to the imposition of discipline.

With respect to employees who are not eligible to join bargaining units, such as employees designated as managerial or confidential, the Personnel Rules and Regulations provide that such employees may not be disciplined except for cause, but the contract provisions regarding discipline do not apply to them. The following discussion of specific contract requirements, therefore, does not necessarily apply to non-bargaining unit employees. Personnel officers or Employee Relations staff should be consulted when discipline for non-bargaining unit employees is under consideration.

DEFINITIONS

DISCIPLINE IN EMPLOYMENT - a systematic method intended to train or correct an employee whose performance or behavior is deficient.

PRESCRIPTIVE PERIOD FOR REMEDIATION - a period of time, normally from three (3) to six (6) months, for employees to improve their performance.

GENERAL PROCEDURES

Many problems can be avoided by keeping communication open between the supervisor and the employee. It is important for supervisors to ensure that employees understand what is expected of them in the performance of their duties. The supervisor should meet with each employee and together develop goals and objectives for the employee's specific job. The *Performance Evaluation Report (AA-PER-6C)* contains a summary page to describe the major job duties and performance expectations, and can be a starting point for outlining the performance expectations for the coming year.

Situations may arise where performance issues are not resolved and disciplinary action or progressive corrective action may become warranted. The disciplinary action article of the current contract must be followed when imposing discipline. The Performance Management Appendix to this policy manual (see Appendix C) should also be consulted.

IMPORTANT CONSIDERATIONS

Performance Cases vs. Misconduct Cases:

The contract provides for different procedures to be followed when addressing employee behavior, depending on whether the employee has committed misconduct or has a problem of job performance. If the employee has committed misconduct, the contract provisions for imposing "progressive discipline" will apply. If, on the other hand, the employee has a performance problem, the section regarding "progressive corrective action" applies. This distinction is extremely important because using the incorrect contractual approach may render the action taken to be legally invalid.

Therefore, when determining what action to take, one of the first determinations to make, in consultation with the personnel officer, is whether the circumstance involves one of misconduct or a job performance problem. While the contract does not define such terms, some general principles have developed in litigation over this issue. They are as follows:

> Misconduct: is committed when an employee has not complied with the rules of the work place. An employee's actions need not have been an intentional violation of a rule to be misconduct - negligence in the work place may be sufficient. If an employee fails to act as a reasonably prudent person would to carry out the job mission, or is indifferent in carrying out job duties, such actions

are misconduct. Thus, if an employee is indifferent to and does not satisfy an important work deadline, this is misconduct. Even in the absence of a deadline, an employee commits misconduct if important interests reasonably calling for prompt action are ignored. Finally, while they may also impact on performance, absenteeism and tardiness are generally considered to be misconduct offenses.

Performance Problems: are generally considered to be those instances where an employee has failed, because of a lack of ability or a shortcoming of judgment, to perform the job to the satisfaction of the employer. If the State has not, through training or rule-making, made its expectations for employee job performance precisely clear, it is generally a performance problem when the employee falls short of expectations. In some positions, many day-to-day decisions are left to the judgment and discretion of the employee, or assignment of priorities may be left to the employee. Where the employer is not satisfied with the employee's use of judgment or discretion, or assignment of priorities, such a problem is appropriately addressed with progressive corrective action. Thus, as an example, in a case where the State left it to the employee's judgment to determine an appropriate course of action, but was dissatisfied with the employee's decision-making, it was found that a written reprimand (which is used to address a misconduct problem) was an inappropriate and invalid response by the employer under the contract.

Managers and supervisors **must** work with their agency/department personnel officer when contemplating the imposition of discipline. Technical details such as notice and the wording of disciplinary letters should be cleared through the personnel officer. The Employee Relations Division of the Department of Personnel should do a final review of letters **prior to issuance**. This is extremely important because great emphasis has been placed on the wording of disciplinary letters in grievance proceedings.

"JUST CAUSE" DEFINED

"Just cause" is the primary standard against which all discipline will be judged. It contains two distinct elements:

1. **Notice**: The "just cause" standard provides that employees may not be disciplined unless they had notice that their conduct was prohibited by the employer. Notice may be express or implied. Notice is express when the employer has prohibited conduct by rule, by training, or by some other form of directive to employees. Notice is implied when, even in the absence of the foregoing, reasonable employees would understand such conduct to be prohibited. For example, reasonable employees know, without being told, that criminal violations in the work place can lead to discipline. Similarly, reasonable employees know that acts of dishonesty or violence in the work place are not permitted. Implicit notice exists in such circumstances because, using an

objective standard, employees, using common sense, know or should know such behavior to be prohibited in the work place.

2. **Reasonableness**: The second and ultimate question regarding "just cause" is whether the employer acted reasonably in the administration of discipline or corrective action. The standard is an objective one. In order for there to be "just cause," the employee must have demonstrated a substantial shortcoming detrimental to the employer's interests which the law and sound public opinion recognize as good cause for the action taken by the employer. In other words, there will not be "just cause" for discipline where the employee's actions were both insignificant and unrelated to any interest of the State. Minor incidents, however, may accumulate so as to provide "just cause" for serious discipline.

OTHER IMPORTANT CONTRACT PRINCIPLES

1. **Uniformity and Consistency of Discipline**: The contract provides that the State will "apply discipline or corrective action with a view toward uniformity and consistency." Appointing authorities should take into consideration, when deciding on an appropriate action, what action was taken against other employees in similar circumstances. However, the contract should not be taken to mandate rigid standards of uniformity.

2. **Timeliness of Discipline**: The contract also provides that the State will "act promptly to impose discipline or corrective action within a reasonable time of the offense." Again, the standard is an objective one, which will take into account individual circumstances of a case. State policies regarding particular subjects should be reviewed to ascertain whether the State has provided a specific time frame for taking certain actions. For example, the State's policy on sexual harassment provides that investigations will generally be completed within thirty (30) days. Such a commitment will be taken into consideration when the promptness of discipline is reviewed. While there have been few cases which have interpreted this requirement, it was decided in one case that a seven month delay between an offense and a disciplinary action violated the contract. Thus, appointing authorities must be reasonably diligent in conducting investigations and taking disciplinary actions. This is not only the contractual mandate but also good labor relations policy.

3. **Progressive Discipline**: Discipline is imposed in progressively more severe sanctions to alert the employee to the seriousness of misconduct and to deter continued inappropriate actions, except in those cases where the employee's actions justify bypassing one or more steps of progressive discipline or corrective action. Bypassing progressive discipline may be warranted, for example, when the nature of the offense was such that the employee's credibility on the job was irretrievably damaged. It may also be warranted when the employee's actions destroyed the confidence of supervisors or management in the employee's ability

to continue effectively in the position. Progressive discipline or corrective action may also be bypassed simply on the basis that the seriousness of the offense alone warrants a severe penalty. It is only very infrequently, however, that performance problems warrant bypassing the contractual steps for progressive corrective action.

4. **Notice of Right of Representation**: The contract requires the employer to inform bargaining unit employees of their right to request the presence of a VSEA representative for certain proceedings. This is the case when: (1) the employee is required by a supervisor or management to give oral or written statements on an issue involving the employee, which may lead to discipline against the employee; and (2) whenever an employee is called to a meeting with management where discipline is to be imposed on the employee.

   While this requirement is fairly broad, it does have some exceptions. First, if the supervisor or management does not believe the circumstances may lead to discipline against the employee, no warning is required. Thus, if the employee is only a witness to alleged wrongdoing by another employee, and is not suspected of any misbehavior, no warning is required. Should the possibility of discipline against such an employee arise in the course of a meeting, it should be interrupted for purposes of giving the warning. Secondly, such a warning is not required when the meeting is called to provide the employee with oral or written notice of performance deficiencies. (See Contract, Article 12, Section 1).

5. **Pre-Termination (Loudermill) Meeting**: Constitutional due process, under the **Loudermill** decision, and the contract (See Article 14, Section 4), require a specific procedure to occur prior to the dismissal of a classified State employee. The key components of this process are to provide notice of charges of misconduct in support of a contemplated dismissal and the opportunity for the employee to respond to them before dismissal is imposed. The contract provided that, *"whenever an appointing authority contemplates dismissing an employee, the employee will be notified in writing of the reason(s) for such action, and will be given an opportunity to respond either orally or in writing."* Such a "Loudermill" letter should not be issued without review by the personnel officer and the Employee Relations Division, because the wording used therein has received extremely strict scrutiny in litigation. For example, a State employee was recently reinstated, despite having committed serious misconduct, because she was informed in the "Loudermill" letter that the State was contemplating "disciplinary action under Article 14", rather than "dismissal", as the above contract language was interpreted to implicitly require.

THE TWELVE FACTORS

Under the case law, each disciplinary action is considered in the context of twelve factors which are typically relevant to evaluating the appropriateness of a penalty. Since such factors will be used to evaluate the propriety of an action which is the subject of a grievance, it is helpful for the employer to take them into consideration before a disciplinary action is imposed. Such factors duplicate some issues already discussed, but can serve as a reminder of matters which should be considered.

1. The nature and seriousness of the offense, and its relation to the employee's duties, position and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated.

2. The employee's job level and type of employment including supervisory or fiduciary role, contacts with the public and prominence of the position.

3. The employee's past disciplinary record.

4. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability.

5. The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's ability to perform assigned duties.

6. Consistency of the penalty with those imposed upon other employees for the same or similar offenses.

7. Consistency of the penalty with any applicable agency table of penalties. (The State does not currently use any form of table of penalties.)

8. The notoriety of the offense or its impact upon the reputation of the agency.

9. The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question.

10. Potential for the employee's rehabilitation.

11. Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter.

12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

ORDER OF PROGRESSIVE CORRECTIVE ACTION

13. Oral or written notice of performance deficiency;

14. Written performance evaluation, special or annual that specifies a prescriptive period for remediation from three (3) to six (6) months;

15. Warning period of thirty (30) days to six (6) months that can be extended for a period of up to six (6) months;

16. Dismissal.

The following should steps should be implemented when administering corrective action:

17. The supervisor should give employees performance standards and expectations and a fair opportunity to improve sub-standard performance.

18. Periodic discussions should be held to review the employee's performance progress.

19. Performance evaluations, notices of performance deficiencies, performance standards, and performance review notes should be discussed with the employee. Such discussions should make it clear when performance is considered to be unsatisfactory.

20. Employees should know before being placed into a prescriptive period for remediation or warning period that there are performance problems, and specifically what they are.

21. Performance expectations or standards should be reasonable, unambiguous, job-related, and, to the extent possible, objectively verifiable.

22. Employers should have clearly established systems for reviewing corrective action to ensure it is administered only with the knowledge and support of senior management and the personnel officer.

23. Employers must comply with the pre-termination process outlined in the Disciplinary Action Article of the contract prior to dismissal of an employee for misconduct or performance problems.

ORDER OF PROGRESSIVE DISCIPLINE FOR MISCONDUCT CASES

1. Oral reprimand;

2. Written reprimand;

3. Suspension without pay;

4. Demotion (optional in the State's discretion);

5. Dismissal.

DUE PROCESS REQUIREMENTS (LOUDERMILL PROCESS)

Number 8.1

Effective Date: March 1, 1996

Subject: DUE PROCESS REQUIREMENTS (LOUDERMILL PROCESS)

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

State employees who are protected by the Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) or the Rules and Regulations for Personnel Administration from dismissal except for just cause (or cause) are entitled to some kind of hearing prior to their dismissal. Appointing authorities contemplating the dismissal of such an employee must provide them with both notice of the specific allegations under consideration, and an opportunity to respond to the charges, prior to imposing the dismissal.

NOTE: Managers and supervisor must contact their agency/department personnel officer for more details.

GENERAL GUIDELINES

When a tentative decision to dismiss an employee has been reached, the appointing authority, or the person delegated thereby to make or recommend such action to the appointing authority, must give employees an opportunity to respond to the specific allegations of misconduct. This generally occurs after the employer's investigation has been completed and the employee's conduct appears to justify dismissal. Prior to taking any disciplinary action, the appointing authority (or designee) should take the steps outlined below.

There are other management actions, disciplinary or otherwise, which may result in an employee losing an employment property right. While not required by the collective bargaining agreement, it may be appropriate in such circumstances to follow the procedures outlined in this policy. Any questions should be directed to the agency/department personnel officer, who should contact the Department of Personnel legal counsel for advise.

NOTIFICATION

1. The employer must notify the employee, in writing, that dismissal is contemplated as a result of certain specific charges, which must be outlined in the letter. Employees must also be told that they have the right to respond to the charges, either orally or in writing, within the time frame outlined in number (3) below, and before final action is taken. This notice should inform employees of their right to be represented by the VSEA or private counsel, if applicable, in preparing and/or delivering such response. See Attachment A, *Sample Pre-Termination Loudermill Letter*. **This letter must be forwarded to the Department of Personnel legal counsel for review prior to mailing.**
2. The notice should give the employee twenty-four (24) hours after receipt thereof to inform the employer whether and in what manner they wish to respond.
3. If the employee wishes to respond in writing, such response should be given to the appointing authority (or the person delegated to make the decision or recommend one to the appointing authority) normally within four (4) calendar days of receipt of the written notice, unless an exception has been granted.
4. If the employee chooses to respond orally, a meeting with the appointing authority (or designee) should be held normally within four (4) calendar days of receipt of the written notice, unless an exception has been granted.
5. For record keeping purposes, the written notice to the employee should be sent certified mail, return receipt required. If the notice is hand-delivered, employees should sign a statement acknowledging receipt.

THE MEETING

1. The meeting should be held by the appointing authority or designee.
2. The purpose of the meeting is:

   to give employees the opportunity to identify disagreement
   they have with the employer's version of the facts;
   to identify witnesses who support their defense;
   to identify any mitigating circumstances which should be considered;
   to offer any other arguments which may be appropriate.

3. Employees have the right to have a representative of the VSEA or legal counsel, if applicable, present at any such meeting. Employees, however, must personally outline their version of the facts, and respond to any questions the appointing authority may have. This will ensure that the decision-maker will have a fair opportunity to evaluate the employee's version of events. The representative may then make such arguments as may be appropriate. The appointing authority may investigate further after the meeting, as deemed appropriate.
4. The purpose of this process is to serve as an initial check against mistaken decisions and to determine whether there are reasonable grounds to believe that the charges against employees are true and support the contemplated action. Employees **do not** have a right, as part of this process, to call witnesses to testify

on their behalf or to cross-examine witnesses who may not support their interests.

5. The appointing authority does not need to justify the tentative decision to employees or their representative during the meeting.

PERFORMANCE CASES

The employer should also use the same process in dismissals for unsatisfactory performance. In such cases, the employer must provide employees with a copy of the final performance evaluation and any attachments thereto, and employ the process described above to afford employees the opportunity to respond to allegations of unsatisfactory performance prior to dismissal.

TEMPORARY RELIEF FROM DUTY

If it would be inconsistent with the interests of the State to have the employee continue working during this process, (s)he may be placed on temporary relief from duty, with pay, in accordance with the current Agreements between the State of Vermont and the VSEA. The letter notifying employees of temporary relief from duty (with reasons), must be provided in writing to employees within twenty-four hours (24) of when the employee is relieved from duty. Consult with the agency/department personnel officer for further information.

Attachment A

SAMPLE PRE-TERMINATION LOUDERMILL LETTER

(to be mailed certified, return receipt required)

Dear **(insert employee name)**:

As a result of your behavior described below, the **(agency or department)** is contemplating your dismissal from the position of **(insert position)**. You have the right to respond to the specific allegations listed below, either orally or in writing, before the final decision is made. You have the right to be represented by VSEA, if applicable, or private counsel during proceedings connected with this action.

The reasons(s) dismissal is contemplated is as follows: **(list reasons here)**

You must notify me within twenty-four (24) hours after receiving this letter whether you wish to respond to the above allegations. You must also then indicate whether you wish to respond in writing or orally in a meeting. If you do not respond within that time frame, a decision will be finalized based on the information available.

If you wish to make your response orally, I will schedule a meeting with you and, if applicable, your representative, within four (4) days of your receipt of this letter. Your written response would likewise be due four (4) days after you received this letter. If you request and are granted an extension of your time to respond in either form, you will

have to take accrued leave, or be in an off-payroll status for the duration of the extension.

You are provided this opportunity to respond so that you can present points of disagreement with what the employer believes the facts to be; to identify witnesses who may support your defense; to identify any mitigating circumstances which should be considered; and to offer any other argument you wish to make.

You may be represented by the VSEA or private counsel, in preparing or presenting your response, whether in writing or at a meeting. It is requested that you personally present your version of the facts. Your representative may then make arguments on your behalf.

After having reviewed any new information, I will conduct further inquiry as is appropriate, and then make a prompt final decision on this action.

Sincerely,

(appointing authority or designee)

cc: Commissioner of Personnel

Section 9

TYPES OF SEPARATION

Number 9.0

Effective Date: March 1, 1996

Subject: TYPES OF SEPARATION

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this policy is to define the types of separation of State employees and the procedures to be taken.

DEFINITIONS

SEPARATION - is the termination of an employee from employment by the State through resignation, dismissal, retirement, or layoff.

EFFECTIVE DATE OF SEPARATION - is the last day on which an employee actually works, except as prescribed by 3 VSA 264 (limited instances when the use of sick leave is authorized).

LACK OF WORK - when there are insufficient funds to permit the continuation of current staffing; or there is not enough work to justify the continuation of current staffing.

LAYOFF/REDUCTION IN FORCE - is the layoff or separation of a classified employee from employment due to a lack of work or otherwise pursuant to management rights.

GENERAL GUIDELINES

NOTE: Prior to separating any employee from State service, managers and supervisors MUST contact their agency/department personnel officer for more details.

Agencies and departments are encouraged to establish guidelines for their managers and supervisors to use when conducting exit interviews with employees who are terminating their employment with State government. Information gained from employee exit interviews may be useful to management in assessing the reasons for staff turnover, and may also be used to provide recommendations for improvements in the agency/department. Agency/department guidelines should be shared with the Employee Relations Division of the Department of Personnel, so that we may know what information is being gathered and how it is being utilized.

Section 9.00 - Retirement

Retirement is the separation of an employee from State service in accordance with the provisions of the Vermont Employees' Retirement System or other retirement systems under which an employee is eligible to receive retirement benefits.

It is expected that employees will notify their supervisor as far in advance as possible of the actual date of retirement.

Employees should contact the State Retirement Services Division at 828-2305 for individual retirement counseling and specific details or requirements.

Section 9.01 - Resignation

A resignation is the separation from State service by an employee's voluntary act. The Rules and Regulations for Personnel Administration provide that an employee must give at least two (2) weeks' notice of a resignation and put the reasons for the resignation in writing to the appointing authority. They also provide that a resignation, once submitted, may not be withdrawn by the employee except with the consent of the appointing authority. Employees who do not give two (2) weeks' notice of their resignation may forfeit payment of an equal number of unused annual leave days by which the notice is short of two (2) weeks.

There are circumstances, however, in which a resignation may nonetheless be valid and effective even though the employee has not put it in writing. This may be the case either where the employee has orally resigned or where he or she has simply stopped coming to work. In each of these circumstances, all of the circumstances will be assessed to determine whether the employee has taken actions sufficient to demonstrate a voluntary resignation.

If an employee has orally resigned, the supervisor should request a written resignation. If that request is not honored or is refused, the appointing authority should confirm by letter to the employee that the resignation occurred and has been irrevocably accepted. In the absence of a timely protest from the employee after this has been done, it should be clear that the employee intended to resign.

However, if an employee orally resigns and thereafter disputes that the resignation was effective, or seeks to withdraw the resignation, the Department of Personnel Employee Relations staff should be consulted for assistance in formulating an appropriate response. If the circumstances demonstrate that the employee has already voluntarily resigned, the appointing authority has the authority to grant or deny the employee's request to withdraw the resignation.

An example of a circumstance in which a voluntary resignation was found to have occurred was when the employee turned in office keys to the supervisor, indicated "I'll see you later," came back after several days and removed personal property from the work place, and then claimed, after several more days of not working, that she had not resigned.

However, in another example, an oral resignation was found to have been coerced where, mid-way through a warning period, the unit chief and employee's supervisor met with the employee, who was not represented in the meeting by the Vermont State Employees' Association, Inc. (VSEA), and gave the employee a couple of hours, i.e., until the end of the day, to resign or face an imminent dismissal. Even though the employee had agreed in the meeting to resign, that resignation was found to have been involuntary, and was therefore invalid.

As noted above, there are also times that an employee simply stops reporting for work. The contract provides that an employee who is absent from work for five (5) consecutive work days without authorization and without contacting management is considered to have voluntarily quit. Again, the Employee Relations should be consulted before action is taken in such a circumstance to ensure contractual compliance.

Finally, there may be circumstances in which the appointing authority has concerns with respect to allowing an employee to work out the period until a resignation takes effect. The Employee Relations Division of the Department of Personnel should be contacted at 802-828-3454 to discuss options where such concerns exist.

Section 9.02 - Dismissal

The Disciplinary Action Article of the current Agreements between the State of Vermont and the VSEA must be followed when contemplating dismissal. However, such dismissal must still be in writing (See Number 9.1 Immediate Dismissal). However, original probationary employees may be dismissed by the State solely at the discretion of management without regard to the provisions of the contract.

NOTE: The agency/department appointing authority must be notified prior to the dismissal of any employee. The personnel officer must be consulted as to the process. The content of the letters must be discussed with the Employee Relations Division of the Department of Personnel.

Section 9.03 - Reduction in Force

There may be circumstances when an agency/department must implement a reduction in force (RIF) (See Number 5.10, Reduction In Force). This should only be done after a thorough review of agency/department programs and a financial analysis of the mission, mandates, and staffing. The appointing authority makes the initial decision as to the number of employees and classes that will be affected by the layoff. Once this decision has been made, the agency/department must notify the personnel officer and the Employee Relations Division of the Department of Personnel prior to implementing any layoff procedures or notification of employees. The Reduction in Force Article of the current contract provides a system which must be followed to ensure the equitable and consistent treatment of classified employees when a reduction in force occurs.

The contract outlines the following procedures for RIF:

- which employees are covered
- the timing and manner of notification to employees and the VSEA
- determining order of separation

Section 9.04 - Disability RIF

Employees who may have to be separated from their position due to an illness or injury that renders them incapable of performing their usual job could be considered for disability RIF status. The request for disability RIF must be supported by medical evidence acceptable to the appointing authority.

The appointing authority must first accommodate an employee with a disability following the requirements of the Reasonable Accommodation Policy as required by the federal Americans with Disabilities Act (See Number 3.2 Reasonable Accommodation). If no accommodation is available, disability RIF would be the next step.

IMMEDIATE DISMISSAL

Number 9.1

Effective Date: March 1, 1996

Subject: IMMEDIATE DISMISSAL

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The State of Vermont is committed to applying progressive discipline or corrective action with a view toward uniformity and consistency. However, circumstances may warrant dismissing an employee immediately without two (2) weeks' notice or two (2) weeks' pay in lieu of notice. This policy is intended to outline what circumstances might warrant immediate dismissal.

GENERAL GUIDELINES

The Disciplinary Action Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) must be adhered to when imposing discipline on an employee covered by the contract..

An employee may be immediately dismissed for any of the following reasons: gross neglect of duty; gross misconduct; refusal to obey lawful and reasonable orders given by supervisors; conviction of a felony; or conduct which places in jeopardy the life or health of a co-worker or of a person under the employee's care.

Whenever employees are required by their supervisor or management to give oral or written statements on an issue involving employees, which may lead to discipline against them, or whenever employees are called to a meeting with management where discipline is to be imposed on employees, they shall be notified of their right to request the presence of a VSEA representative. If so requested, the VSEA representative has the right to accompany employees to any such meeting.

An appointing authority should use discretion to impose a penalty that is reasonable for the offense. Dismissal will be justified for minor offenses if a chronic pattern of violation, not corrected after repeated discipline, is shown.

EXAMPLES OF ACTIONS THAT MAY WARRANT IMMEDIATE DISMISSAL

Following are some examples of gross misconduct that **may** warrant immediate dismissal of a State employee:

- Failure to meet reasonable standards of conduct such as: fighting or threatening physical harm to another.
- Theft or destruction of property.
- Intentional loss, damage, destruction, or unauthorized use of property, records, or information.
- Defiance of authority, refusal to obey reasonable and lawful orders, or wanton disregard of directives.
- Conviction of a felony.
- Conviction under any criminal drug statute for a violation occurring in the workplace, while on or off duty, or on duty away from the workplace.
- Falsification of records or use of official position for personal advantage.
- Abuse of patients, inmates, or students; or mistreatment of those charged to the care of the employee.
- Compromising the examination process for State employment through unauthorized possession, use, or furnishing to others of examination information or materials.
- Compromising the security of a State institution or facility.

FINAL PAY

Number 9.2

Effective: March 1, 1996
Revised: May 15, 2002

Subject: **FINAL PAY**

Applicable To: All classified employees, as well as exempt, appointed and temporary, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

To provide information regarding the final pay upon separation of employment from the State of Vermont.

DEFINITIONS

PAY PERIODS - Pre-established bi-weekly periods which consist of two consecutive calendar weeks, beginning at 12:01 AM Sunday and ending at 12:00 midnight on Saturday fourteen days later.

PAY DATE - Pay date is the second Thursday following the end of the pay period. However, if the pay date happens to fall on a holiday, employees will be paid on the preceding Wednesday.

EFFECTIVE DATE OF SEPARATION - is the last day on which an employee actually works, except as prescribed by 3 VSA §264 (limited instances when the use of sick leave is authorized).

GENERAL PROCEDURES

Employees must complete a time sheet for each pay period and submit it to their supervisor in order to process final pay.

The effective date of separation of any employee is the last day actually worked. For classified employees, if the next calendar day after the last day worked is a holiday, the employee will receive pay for the legal holiday, but the effective date of separation shall not be changed as a result of receiving such holiday pay.

Up to twenty (20) days of unused annual leave accrued by an employee will be paid as a lump sum with the final paycheck. The employee's entire annual leave balance will be paid as a lump sum if an active employee dies or upon retirement from State service. Any unused compensatory time off will be paid off in cash as a lump sum in the final paycheck.

Any unused supervisory personal leave may be paid off in accordance with the appropriate collective bargaining unit agreement.

Section 10

GRIEVANCE PROCEDURE

Number 10.0

Effective Date: March 1, 1996

Revised Date: May 15, 2002

Subject: **GRIEVANCE PROCEDURE**

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this grievance policy is to set forth the process for the resolution of complaints and grievances filed by an employee, a group of employees, or the duly certified bargaining representative, the Vermont State Employees' Association, Inc. (VSEA) as established by the applicable labor agreement and Vermont law.

Employees and supervisors are expected to make a sincere effort to reconcile their differences at the lowest possible organizational level.

All decisions and resolutions must be consistent with the Agreements between the State of Vermont and the Vermont State Employees' Association, Inc., the Rules and Regulations for Personnel Administration, State and Federal laws and current policies.

DEFINITIONS

COMPLAINT - is an employee's or group of employees' informal expression to the immediate supervisor of dissatisfaction with aspects of employment or working conditions under a collective bargaining agreement.

GRIEVANCE - an employee’s, group of employees’, or the employee's collective bargaining representative's expressed dissatisfaction, presented in writing, with aspects of employment or working conditions under a collective bargaining agreement or the

discriminatory application of a rule or regulation, which has not been resolved to a satisfactory result through informal discussion with immediate supervisors.

MANAGEMENT REPRESENTATIVE - the appointing authority/administrative head of the department, or person selected as designee.

WORKDAY - Monday through Friday, excluding legal and administrative holidays and the day after Thanksgiving.

GENERAL PROCEDURES

Managers and supervisors must consult with their agency/department personnel officer regarding grievance issues to obtain guidance during the process.

When a decision is rendered on a Step II grievance, the agency/department personnel officer must forward a copy of the grievance and the decision to the Employee Relations Division of the Department of Personnel. Any additional information that is pertinent to the issue (such as letters of reprimand, performance evaluations, etc.) must also be submitted along with the grievance decision. This is to ensure that the Employee Relations staff has adequate information to review the case if a Step III grievance is filed.

VSEA may be present at Step III grievance hearings for bargaining unit employee grievances even if they do not represent the employee. The purpose is not to represent the employee, but to give their interpretation of the contract language at issue.

It is the responsibility of the management representative conducting a grievance hearing to act fairly and without prejudice in determining the facts which affect the granting or denial of a grievance. The Agreement provides instructions for the management representative in the discharge of this function including mediation of the grievance between the parties.

Employees may use a reasonable amount of work time without loss of pay or charge to accumulated leave to submit complaints or grievances, or to participate in grievance investigations or meetings, after requesting permission from the immediate supervisor.

The employer may not retaliate, harass or threaten an employee who has filed a complaint or grievance.

The Grievance Procedure Article of the Agreements Between the State of Vermont and the Vermont State Employees' Assoc., Inc. must be followed for this purpose. This article outlines time frames that must be adhered to.

LEVELS OF GRIEVANCES

Step I:

(a) Immediate supervisor level. At this level, the complaint is discussed informally by the employee or his or her representative, or both, and the supervisor. The complaint must be filed within fifteen (15) workdays of the date upon which the employee could have reasonably been aware of the occurrence of the matter which gave rise to the complaint. *This is not a required first step of the grievance procedure*. A supervisor should always clarify with the employee if a discussion of a complaint is considered to be a Step I meeting.

(b) A Supervisor may elect not to meet with the employee and/or his/her representative in a Step 1 meeting. If such election is made, the supervisor shall advise the employee within two (2) workdays of receiving notice of the complaint/grievance. The employee will then have ten (10) days to file his/her complaint or grievance in writing, to Step II – Department head level.

(c) If a Step I complaint is initiated, the complaint shall be discussed informally by the aggrieved employee, or his/her representative, or both, and the immediate supervisor. If the issue remains unresolved, an employee must comply with the following time frames for filing to the Step II level:

a. within ten (10) workdays after receipt of the Step I decision;

b. within thirty (30) workdays from when the employee first gave notice to the supervisor of his/her complaint as outlined above, whichever occurs first

(d) An employee may opt to bypass the Step 1 procedure and file his/her complaint directly to the Step II (departmental level). If bypassing Step I, an employee must file a written grievance to the head of the employee's department, within fifteen (15) workdays of the date upon which the employee could have reasonably been aware of the occurrence of the matter which gave rise to the complaint.

Step II: (1) Departmental Level. If a satisfactory resolution cannot be reached at the Step I level, or it is the desire of the employee to bypass Step I, the complaint is put in writing and submitted to the agency or department head as a formal grievance. A grievance meeting with the agency/department head, or designee, may be requested by the

employee or his/her representative. The complaint must be filed within ten (10) workdays after receiving the Step 1 decision or within 30 workdays from when the employee complained to the supervisor, whichever comes first**.**

NOTE: Complaints may be initially filed at Step II within 15 days workdays of the date upon which the employee could have reasonably been aware of the occurrence of the matter which gave rise to the complaint.

On the request of a VSEA Director, and with the approval of the Department of Personnel and the applicable appointing authority, the time limits for filing a Step II grievance may be extended for a specific period of time, not to exceed ten (10) workdays.

(2) The grievance shall be discussed informally, either in person or via telephone, within ten (10) workdays of its receipt, between the employees, and/or his or her representative, and the department head or his/her representative.

(3) The Department shall notify the aggrieved employee and his/her representative of the department's decision. in writing, within five (5) workdays after the discussion. The parties may mutually agree to postpone the discussion, but shall hold it as soon as practical.

Step III: (a) Department of Personnel level. If a satisfactory resolution cannot be reached at the Step II level, the written grievance may be submitted by the employee or his or her representative to the Department of Personnel. The employee or his or her representative may request a meeting to discuss the grievance. The grievance must be filed within ten (10) workdays after receiving the Step II decision. **NOTE:** Complaints may be initially filed at Step III if the subject matter of the grievance is clearly beyond the control of the agency, department or institution head, and must be filed within 15 workdays of the date upon which the employee could reasonably have been aware of the occurrence of the matter which gave rise to the complaint.

(b) If the employer fails to render a decision at Step II or Step III within the prescribed time limit, the employee may proceed to the next step within the time limits above. Failure to issue a written decision within the time frames specified at Step III for disciplinary action grievances may result in the automatic granting of the contractual remedy requested and directly applicable to the employee. Any dispute over such contractual remedy will be decided by the VLRB.

Step IV: Vermont Labor Relations Board (VLRB) level. An appeal of the Step III level decision may be made by the employee or his/her representative to

the VLRB in accordance with the rules and regulations established by the Board. Step IV grievances must be filed within thirty (30) days of receipt of the Step III decision**. NOTE:** An employee may appeal his or her dismissal directly to the Vermont Labor Relations Board within the time limits specified by the Board

Vermont Supreme Court

An appeal of a VLRB decision may be filed with the Vermont Supreme Court within 30 calendar days of a Step IV decision. Vermont Supreme court rules of procedure and hearing schedule of the court will dictate the timing of any decision.

CONTENTS OF GRIEVANCE

A grievance must contain the following information:

1. The full name and address of the party or parties submitting the grievance;

2. Identification of the State agency, department or institution involved;

3. A statement of the facts concerning the grievance;

4. Specific references to the pertinent section(s) of the contract or of the rules and regulations alleged to have been violated;

5. A statement of the specific remedial action sought;

6. A request for a grievance meeting, if desired.

CLASSIFICATION GRIEVANCE

Number 10.1

Effective Date: March 1, 1996

Subject: CLASSIFICATION GRIEVANCE

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It is the policy of the State of Vermont to ensure that employees have access to a thorough and complete review of their position's classification. An employee who feels that his or her position has been improperly classified may file a grievance as provided for in the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA).

The purpose of this policy is to define the specific procedures of the classification grievance process.

DEFINITIONS

CLASSIFICATION GRIEVANCE - a dispute over whether an employee's position, or the positions of a group of employees, is correctly allocated to a class, and/or the class is correctly assigned to pay grade.

DESIGNEE - the person assigned by the Commissioner of Personnel to act on his or her behalf to review the grievance, conduct any requested formal grievance meeting, and recommend a decision.

GENERAL PROCEDURES

The Classification Review and Grievance Article of the current contract outlines the procedures for filing a classification grievance. A classification grievance may be filed only if the position submitted for review was not changed to a higher pay grade.

Employees may file a classification grievance only after they compete the classification review process and receive a determination from the Department of Personnel (See

Number 6.2, Classification Review). If the Department of Personnel does not issue a written notice of its decision within sixty (60) days for a single position, or within ninety (90) days for a multiple position class, employees may resubmit their classification request in the form of a classification grievance directly to the Commissioner of Personnel.

PROCEDURES FOR FILING A CLASSIFICATION GRIEVANCE

A classification grievance must be filed within thirty (30) calendar days of the employees' receipt of the classification review decision. However, if an employee had an informal meeting with the Department of Personnel (See Number 6.2, Classification Review), then the grievance must be filed within fifteen (15) calendar days after the informal meeting. A letter from the Classification Unit indicates the outcome of the informal meeting and is used as the basis for determining the deadline for filing subsequent appeals.

Employees who fail to file within such time limits lose their rights to pursue a classification grievance. A classification grievance may be filed unless the classification review has resulted in a higher pay grade.

Written grievances must be filed in duplicate with the Department of Personnel, 110 State Street, Drawer 20, Montpelier, VT 05620-3001, and include the seven (7) items required by the contract as follows:

- Name and home address of the employee submitting the grievance.
- Position number, class title, and pay grade of the position under appeal, and the department/division/section in which the position is located.
- A brief statement that describes the reason for the original request for review, outlines the State's response to the request, and explains the rationale for the grievance. It should also contain a statement specifying the change in duties critical to the classification of the position sufficient to produce a reallocation to class or reassignment to pay grade.
- A written summary of any other reasons why the position is allocated to the wrong class and/or the class is assigned to a wrong pay grade.
- The remedial action being requested, including the title and pay grade which the grievant believes should apply.
- Copies of all materials submitted in the initial request for classification review, plus the decision *(Employee Notice)* from the Department of Personnel.
- An indication whether the grievant wishes to have a grievance meeting with the Personnel Commissioner (or the designated representative).

Copies of the above information must be submitted to the employee's appointing authority when the grievance is filed with the Department of Personnel.

The Classification Unit will review the grievance for compliance with the filing requirements and will notify the employee if any additional information is needed. The employee will be given ten (10) workdays to complete the filing.

If an employee requests a grievance meeting, it will be held within fifteen (15) workdays after the receipt of the grievance by the Department of Personnel. A written decision shall be issued within fifteen (15) workdays of such meeting. If no meeting is requested, a written decision shall be issued within thirty (30) workdays of receipt of the grievance. These time frames, for holding a meeting and/or issuing a decision, may be extended by the mutual consent of the grievant and the Commissioner of Personnel (or designee).

The Commissioner of Personnel (or designee) may request additional information from the grievant and/or the Classification Unit, and may impose deadlines for its submission. The deadlines for holding a meeting and/or issuing a decision will be extended to allow for the submission of this information.

The employee filing a grievance must establish that the classification decision was "clearly erroneous" under the standards provided by the point factor analysis system used by the Department of Personnel.

The Classification Unit usually will provide the Commissioner's designee with copies of all documents relevant to the grievance meeting, including a prepared response to the submitted grievance. Any material provided to the designee in advance of the meeting will also be given to the grievant and/or his or her representative.

After the grievance meeting, the Commissioner's designee recommends whether the grievance demonstrated that the classification decision was "clearly erroneous". The Commissioner of Personnel notifies the employee of the final decision within the specified time frames (unless the time frames are extended by mutual consent).

APPEAL TO THE VERMONT LABOR RELATIONS BOARD (VLRB)

An employee who is aggrieved by a classification grievance decision of the Commissioner of Personnel may have that decision reviewed by the VLRB. Unless appeals to the VLRB are filed within thirty (30) calendar days of receipt of the Commissioner's decision, the right to appeal is waived.

The VLRB only considers whether the grievance decision was "arbitrary and capricious" in applying the Willis Position Evaluation System to the facts established by the entire record. The VLRB is not permitted to conduct a *'de novo'* hearing nor is it permitted to substitute its own judgement regarding the proper classification or assignment of positions to a pay grade. The VLRB bases its decision on the record used in the grievance meeting. If the VLRB determines that the decision was arbitrary and capricious, it is required to state the reasons for that finding and remand the matter to

the Commissioner of Personnel who shall take appropriate action and address those aspects of the original decision that the VLRB found to be arbitrary and capricious.

The parties waive judicial review by the Vermont Supreme Court of any ruling of the VLRB that the decision by the Commissioner of Personnel was, or was not, arbitrary and capricious. If the Commissioner of Personnel, upon remand, fails to address aspects of a classification decision which the VLRB has determined to be arbitrary and capricious, the sole avenue of relief for an employee shall be to petition the VLRB for enforcement of its order in the Superior Court, in accordance with Board rules and the Rules of Civil Procedure.

IMPACT OF DECISIONS AND SETTLEMENTS

A classification decision shall not constitute a binding precedent regarding the internal comparability of a position that was reviewed or grieved to positions not subject to the original classification review and grievance. Nothing herein shall prevent the settlement of a classification grievance at any point in the process.

ADA GRIEVANCE PROCEDURE

Number 10.2

Effective Date: April 22, 2005

Subject: AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

Supersedes ADA Grievance Policy Dated March 1, 1996

Applicable to: All classified employees, as well as exempt, appointed, and temporary, and applicants for employment with the Executive Branch of the State of Vermont. This Grievance procedure is also applicable to members of the public.

Issued By: Department of Human Resources

Approved By: Charles P. Smith, Secretary of Administration

PURPOSE AND POLICY STATEMENT:

The following grievance procedure is established to meet the requirements of the Americans with Disabilities Act (ADA). It is intended to provide prompt and equitable resolution of complaints alleging any violation of the ADA by a department, agency, or instrumentality of the Executive Branch of the government of the State of Vermont by reason of employment practices and policies or the provision of services, activities, programs, and benefits. This Grievance Procedure is available to State employees and to the public.

GRIEVANCE PROCEDURE

1. The complaint should be in writing and contain the name, address and phone number of the complainant and the location, date, and description of conduct or circumstances from which the violation is alleged to arise. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.
2. The complaint should be submitted to the following individual, who is hereby designated to coordinate ADA compliance on behalf of the Executive Branch, as soon as possible but no later than sixty (60) calendar days after the complainant becomes aware of the alleged violation:

   Secretary of Administration
   Vermont Agency of Administration
   109 State Street

Montpelier, VT 05609-0201
Phone: (802) 828-3322 FAX: (802)828-2428 TDD: (802) 828-3342

3. Upon receipt of the complaint, the Secretary of Administration shall refer the matter to an official ("the official"), generally the appointing authority of the affected agency, department or instrumentality, and shall notify the complainant of the referral. "Appointing authority" is the person authorized by statute, or lawfully delegated authority, to appoint and dismiss employees.
4. Within fifteen (15) calendar days after filing of the complaint, the official (or his or her designee) will communicate with the complainant and discuss possible resolutions ("the conference").
5. Within fifteen (15) calendar days after the conference, the official will respond in writing to the complaint. Upon request, the response will be made available in a format accessible to the complainant, such as large print, Braille, or audio tape. The response will explain the position of the State of Vermont and offer any options which the State deems appropriate for substantive resolution of the complaint.
6. If the response by the official does not satisfactorily resolve the issue, the complainant may appeal the decision of the official within fifteen (15) calendar days after receipt of the response to the Secretary of the Agency of Administration.
7. Within thirty (30) calendar days after receipt of the appeal, the Secretary of the Agency of Administration or his or her designee will review the complaint, conduct any meeting with the complainant or further investigation (s)he may deem appropriate, and respond in writing with a final decision regarding the complaint. Upon request, the response will be made available in a format accessible to the complainant, such as large print, Braille, or audio tape.
8. All complaints filed, appeals to the Secretary of Administration, and responses from the official and Secretary of Administration or his or her designee will be kept by the Executive Branch for not less than three (3) years from the date of filing of the complaint.

SPECIAL PROCEDURES

Following are special procedures for State employees and persons deemed to be State employees with respect to employment-related complaints.

The collective bargaining agreements between the State of Vermont and the Vermont State Employees' Association, Inc., Article 5, ("No Discrimination or Harassment") states that State employees are protected from discrimination, intimidation and harassment because of their handicap or other factor for which discrimination is prohibited by law. The State/VSEA Agreements give employees the right to file a grievance under Article 15 ("Grievance Procedure") if they believe that the contractual provisions have been violated. Employees who are covered by such agreements who believe that the actions of the State of Vermont as the employer have violated their rights under the Americans with Disabilities Act have the right to pursue such a claim

through that same contractual grievance procedure in accordance with the terms thereof. However, if the employee seeks to pursue a grievance over a decision of the State Reasonable Accommodation Committee, such grievance must be filed with the Vermont Labor Relations Board within thirty (30) calendar days of receipt of the decision of the committee or the matter shall be considered closed.

Persons who are not State employees as defined in 3 VSA 902 (5), but who work for the State of Vermont in a managerial, confidential, exempt, temporary or other capacity, are deemed to be State employees under 3 VSA 902 (4), only to the extent that they have the right to file, in accordance with the terms of the contractual grievance procedures, a grievance claiming that the actions of the State of Vermont as their employer violated their rights under the ADA. Such a grievance may be pursued up to, but not beyond, the Step III grievance level.

Nothing in this Grievance Procedure will toll any statute of limitations under local, State, or federal law.

This Grievance Procedure shall take effect upon execution and supersedes the Department of Personnel ADA Grievance Policy issued on March 1, 1996.

Section 11

EMPLOYEE WORKWEEK – LOCATION/SHIFT

Number 11.0

Effective Date: March 1, 1996
Subject: **EMPLOYEE WORKWEEK/LOCATION/SHIFT**
Revised Date: October 1, 1999

Applicable To: All classified employees, as well as exempt, and temporary, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

To ensure access to State services by the public, as well as to facilitate teamwork and supervisory assistance, uniform hours of work will be established for State employees. However, to accommodate employees' needs, the appointing authority may approve alternative work schedules that may include job-sharing, four-day workweeks, alternative schedules with core time, and flex-time schedules.

The Employee Workweek/Work Location/Work Shift Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA), must be adhered to when modifying work schedules.

WORK DAY

The standard State work day begins at 7:45 a.m. and ends at 4:30 p.m. and includes a forty-five (45) minute lunch period. Most employees are required to take at least a thirty (30) minute lunch period (correctional officers and fire fighters are among the exceptions). The standard work day ensures that State offices are open and accessible to the public during these hours, including the noon hour. Lunch periods should be scheduled to ensure continuous staffing of all offices with at least one person available on duty to provide services to the public.

State operations that require twenty-four (24) hour coverage (such as the Department of Public Safety, the Vermont State Hospital, and correctional facilities), highway maintenance facilities, and other non-standard activities shall not necessarily be required to open to the public nor to maintain the public hours specified above. The

standard work day for these institutions and facilities will be determined by the respective appointing authority.

WORKWEEK/WORK SHIFT

An appointing authority must follow the procedures set forth in the appropriate collective bargaining unit agreement prior to imposing a change in workweek upon an employee. Any department or institution must notify the Employee Relations Division of the Department of Personnel (which will notify the VSEA), prior to the establishment of a new shift or workweek that is different from any existing one. It may be necessary to negotiate the impact of this decision with the VSEA, which may request a meeting with management to do so.

An employee may request a temporary change in his/her daily or weekly work schedule and/or shift. This change must be approved by the appointing authority and changed as long as the employee is not scheduled to regularly work in excess of 40 hours per workweek (if covered by FLSA) or 80 hours in a two work week period (if not covered by FLSA). In those instances, the employee shall not be eligible for overtime compensation unless required to work in excess of the applicable 40 hours per work week, or, if applicable, 80 hours per two work week period.

ALTERNATE WORK SCHEDULES

It is important to note that it is management's prerogative to determine if alternate work schedules fit with the operating needs of the agency/department. It is the supervisor's prerogative to change an employee's alternate work schedule if the supervisor feels that the schedule is not working well.

In response to an employee request, and subject to the operating needs of an agency or department, an appointing authority may, after consultation with the VSEA, establish alternate work schedules. The starting and quitting times, as well as length of meal breaks for individual employees may vary from pre-established standard work schedules in an alternate work schedule. Alternate work schedules allow an employee to work more or less than eight (8) hours in a day, or less than five (5) days in a week (i.e., working 10 hours a day, 4 days a week). However, alternate work schedules must require employees work forty (40) hours each week.

Agencies/departments may establish core hours that each of their employees must work daily, and may determine the length of an employee's lunch break. All newly established alternate work schedules shall be with the mutual agreement of management and the employee, and subject to the concurrence of the VSEA and the Department of Personnel. Prior to implementation, agencies/departments should develop alternate work schedule policy and submit the same to the Employee. Approved policies should be distributed to all agency/department employees.

Once an alternate work schedule has been approved for an employee, the Department of Personnel will assign a new overtime code to the employee. The agency/department personnel officer must then process a personnel action reflecting the overtime code change. See Sample Alternate Work Schedule in Appendix A.

FLEX-TIME

Depending upon the needs of the work unit and with approval of the supervisor and the appointing authority, flex-time schedules can be arranged. A flex-time schedule is the replacement of fixed arrival and departure times by a schedule of working hours that is chosen by an employee within the parameters developed for his or her work unit.

Flex-time may include the option of working a longer tour of duty on one day to offset a shorter tour of duty on another day in the same work week without receiving overtime for the extended day or being penalized for the shorter day.

In a true flex-time schedule, employees work all core hours and have much latitude for the time they work during the flexible hours. Very few State employees work flex-time schedules. See Sample Flex-time Schedule in Appendix A.

Participation in a flex-time schedule is voluntary and generally initiated by the employee. Employees who fail to adhere to program requirements may be excluded from participation by their supervisors and be required to work standard office hours.

The primary difference between flex-time arrangements and an alternate schedule is the requirement to work certain core hours 5 days per week with considerable latitude for the remaining 4 hours rather than a fixed, alternative schedule.

WORK LOCATION

Each employee will be assigned an official work location. The provisions of the appropriate bargaining unit agreement, including notice provisions, must be adhered to if it is necessary to temporarily assign an employee to a different work location or geographic area, or to move a position to a different geographic area.

Signed By Kathleen C. Hoyt, October 25, 1999

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Approved, Secretary of Administration

APPENDIX A - SAMPLE WORK SCHEDULES

Normal Schedule:
7:45 a.m. to 4:30 p.m., Monday - Friday, 45 minute lunch
(Employee works 5, 8-hour days in a week with the same start and end times.)

Alternate Schedule:
7:00 a.m. to 3:45 p.m., Monday - Thursday, 45 minute lunch
8:00 a.m. to 4:45 p.m., Friday, 45 minute lunch
(Employee works 5, 8-hour days in a week with varied start and end times.)

Alternate Schedule:
6:30 a.m. to 5:00 p.m., Monday - Thursday, 30 minute lunch
(Employee works 4, 10-hour days in a week with the same start and end times.)

Flex Schedule:
6:30 a.m. to 9:00 a.m. flexible hours
9:00 a.m. to 11:00 a.m. core hours
11:00 a.m. to 1:00 p.m. flexible hours
1:00 p.m. to 3:00 p.m. core hours
3:00 p.m. to 7:00 p.m. flexible hours
(Employee works 5, 8-hour days in a week. Employee must work 4 hours during the core time. The remaining 4 hours are worked when the employee wants. Lunch may be as little as 30 minutes, or as long as 2 hours. Start and end times may vary daily.)

LUNCH AND BREAK PERIODS

Number 11.1

Effective Date: March 1, 1996

Subject: **LUNCH AND BREAK PERIODS**

Applicable To: All classified employees, as well as exempt, appointed, and temporary, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

POLICY STATEMENT

The purpose of this policy is to define and provide guidelines regarding lunch periods and rest breaks. It is not good practice for supervisors to permit employees to work through their lunch period.

GENERAL GUIDELINES

Lunch Periods

Each full-time State employee ***must take*** a minimum thirty (30) minute unpaid lunch break daily, with the exception of some employees of the Departments of Corrections, Public Safety, and Military. Employees are not paid for a bona fide lunch period when the employee is completely relieved from duty, is not working, and is free to leave his or her duty post.

The length of an employee's lunch break will be determined by the schedule that is worked, with approval of the supervisor. The maximum time allowed for a lunch break is ninety (90) minutes.

For employees eligible to earn overtime, if an employee is permitted or required to work during his or her lunch period, it must be counted as compensable working time. Employees cannot work through their lunch period unless they are authorized to do so by their supervisor. Unless they are willing to pay overtime, supervisors should not allow employees to work through their lunch periods and should so notify their employees.

Breaks

Breaks are a privilege that management extends to employees, and not a right that they have to take them. The State of Vermont has no formal policy regarding rest breaks. However, individual agencies and departments are encouraged to set their own policy regarding work breaks for their employees. Break policies should address: the amount of time allowed for the break; the number of breaks allowed in a work day; and the times of day that breaks should be taken. Smoking breaks should be included in this time (See Number 17.4, Smoking). All break policies must be approved by the Employee Relations Division of the Department of Personnel prior to implementation.

A break is defined as a short period of less than twenty (20) minutes. The break is not considered meal time and, therefore, is considered to be compensable work time under the Fair Labor Standards Act.

Unused breaks cannot be accrued to be used at a later time.

OVERTIME/COMPENSATORY TIME

Number 11.2

Effective Date: March 1, 1996

Subject: **OVERTIME/COMPENSATORY TIME**

Supersedes Agency of Administration Bulletin 41.25, dated February 3, 1971

Applicable To: All classified employees, as well as exempt and temporary, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

Consistent with efficient and sound management of State government, overtime work for all employees will be held to a minimum. The appointing authority will ensure that supervisors schedule and assign regular work so that it minimizes the need for overtime work. This policy provides agencies and departments with the necessary guidelines for the implementation and administration of overtime and compensatory time performed by employees of the State of Vermont.

DEFINITIONS

ACCRUAL YEAR - The first full semi-monthly pay period beginning April 6, through the last full semi-monthly pay period ending April 5.

COMPENSATORY TIME - time off substituted for the receipt of cash for overtime worked at the applicable rate.

HOURS WORKED - includes all time an employee must be on duty, on the employer's premises, or at any other prescribed place of work.

NORMAL WORKING HOURS - the hours between the beginning and ending of an employee's regularly scheduled shift.

OVERTIME - the hours actually worked by an employee in excess of the standard established either by law or by the Agreements between the State of Vermont and the Vermont State Employees' Association, Inc.

WORKDAY - a regularly scheduled day of work which begins at the time the employee's regular and normal work schedule begins and continues for twenty-four consecutive hours.

WORKWEEK - a period of 168 hours during 7 consecutive 24-hour periods, beginning at 12:01 a.m. Sunday, and ending at 12:00 midnight, Saturday.

GENERAL PROCEDURES

The Overtime and Observance of Holidays Articles of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. contain sections relating to the application of overtime and must be adhered to, where applicable.

Overtime work for all employees should be held to a minimum consistent with efficient and sound management of State government.

Each appointing authority (or designee) shall schedule and assign regular work in a manner which will minimize the need for overtime work, and shall require compliance with reasonable standards of performance before requiring employees to work overtime.

It is understood and agreed that determining the needs for overtime work, scheduling the hours overtime shall be worked, and requiring overtime work are exclusively employer's rights.

DISTRIBUTION AND AUTHORIZATION OF OVERTIME

Appointing authorities shall make a reasonable effort to distribute overtime as equitably as possible among classified employees, and shall not change or alter the regular workweek of an employee (once posted where applicable) for the purpose of avoiding the payment of overtime or shift differential. Persistent schedule changes in individual employees are discouraged and will be subject for Labor-Management Committee discussion.

Overtime shall be assigned whenever practicable to volunteers. Assignment of overtime work to volunteers shall not be considered contrary to the concept of equitable distribution of overtime.

With written request and twenty-four (24) hours' notice, an employee shall be excluded from further consideration for overtime. Such request may be canceled by the employee and may also be revoked by a supervisor under emergency circumstances, unless a medical exemption has been granted. An employee with a medical exemption may not volunteer for overtime without medical clearance. The employer may exercise its discretion to offer overtime opportunities to employees whose availability for overtime is self-limited to specific times or days. Such accommodation shall not itself be grievable by other employees.

It is agreed that except in emergency or crisis situations, employees who are on annual leave, personal leave, or compensatory time off shall be the last to be required to work overtime.

If classified employees are scheduled for overtime work or are unavailable for overtime work, non-classified employees may be authorized to work overtime.

Employees shall be given two (2) weeks' notice of scheduled overtime. However, in emergency situations, the employer shall give the maximum notice practical under the circumstances.

When it becomes necessary to continue work on a particular project on an overtime basis, the employee required to perform such overtime work will normally be the one who has been working on the same project during his or her regular work hours.

Institutions and other work units which routinely distribute overtime shall do so on a rotational basis, in a fair and equitable manner for both voluntary and involuntary distribution of overtime within each such unit.

Temporary adjustments in working hours or realignment of duties within the department should be considered as alternatives to the use of overtime.

Employees may not authorize their own overtime without permission from management.

OVERTIME COMPENSATION

I. FOR CLASSIFIED EMPLOYEES:

Classified employees will be compensated for all hours worked in excess of the normal working hours according to their assigned overtime category. Employees who are entitled to receive either cash or compensatory time for overtime worked will be paid in cash unless compensatory time is specifically requested.

The appointing authority shall ensure that all overtime earned and used is recorded on the employee's time sheet as it occurs.

The following hours are to be considered as time actually worked for purposes of determining eligibility for overtime compensation:

- ☐ hours actually worked
- ☐ hours on annual leave
- ☐ compensatory time off
- ☐ hours on personal leave
- ☐ unworked paid holidays
- ☐ paid VSEA time
- ☐ court and jury duty

- ☐ time spent traveling to and from training

The following hours are not considered as time actually worked for purposes of computing overtime, included but not limited to:

- ☐ meal time
- ☐ normal commuting time
- ☐ hours on paid sick leave
- ☐ hours on Workers' Compensation
- ☐ military leave
- ☐ civic duty leave
- ☐ fire and rescue duty
- ☐ educational leave with pay
- ☐ administrative leave
- ☐ temporary relief from duty
- ☐ time off payroll

II. FOR TEMPORARY EMPLOYEES:

Temporary employees are paid only for time actually worked. If temporary employees are required to work overtime, they will receive cash at time and one-half for any hours worked over eight (8) in a day, or forty (40) in a week, unless otherwise authorized under Policy Number 12.7, Compensation for Temporary Employees.

Temporary employees are not eligible to earn compensatory time for overtime worked.

III. FOR EXEMPT EMPLOYEES:

Overtime pay for exempt employees may vary depending on their agreed upon conditions of employment, which should be established at the time of hire. The agency/department personnel office should be consulted for questions regarding their exempt employees.

EARNING COMPENSATORY TIME

The Overtime and Observance of Holidays Articles of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. contain sections relating to Compensatory Time and must be adhered to, where applicable.

An employee who is entitled to be paid cash for approved overtime may instead request compensatory time off at the applicable rate. If compensatory time is not requested at the time the overtime is approved, the employee will be paid in cash.

USING COMPENSATORY TIME

Employees wishing to use compensatory time must make a request in advance to their supervisor. Management may grant or deny an employee's request, pursuant to the operating needs of the department. If the request for use of compensatory time is granted, management will make every effort to schedule the time off within a reasonable time period. Management should encourage employees to use their compensatory time as they earn it.

When an employee separates from State service, (s)he will be paid in cash in a lump sum with the final paycheck at the employee's then base rate of pay, for any unused compensatory time balance.

Unused compensatory time off that was earned by an employee during accrual year "A" may be carried over until the end of accrual year "B", but not beyond that. Except in the instance of overtime category 18, when the employee, through no fault of his or her own, is unable to use up accrual year "A" compensatory time prior to the end of accrual year "B", (s)he will be paid in cash at the base hourly rate then prevailing.

EMERGENCY CLOSING

Number 11.3

Effective Date: March 1, 1996

Subject: EMERGENCY CLOSING

Applicable To: All classified employees, as well as exempt, appointed, and temporary, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

There are occasions when management must decide if and to what extent State facilities should remain open or be closed during emergencies such as adverse weather conditions, acts of God, equipment breakdown, inoperable bathroom facilities, extreme office temperatures, etc. This policy clarifies who has the authority to make such decisions, and under what circumstances.

GENERAL INFORMATION

The following defines the different types of emergency closing situations that may arise and specifies who has authority to close a State office or facility.

1. **Reduced Work Force**:

In a reduced work force situation, State offices and facilities are still open for business, but with a reduced level of service. The following are the examples of a reduced work force situation:

- DELAYED OPENING of State offices and facilities.
- EARLY CLOSING of State offices and facilities.
- FULL DAY OF CONTINUED OPERATIONS with a reduced work force. This is most frequently used when one office or facility is closed in the case of fire, malfunctioning furnace, or some other localized emergency.

Employees who are required to remain at work in a reduced work force situation will receive their regular pay plus **compensatory time off at straight time rates** for all hours worked (including overtime). This does not apply to exempt, managerial, confidential, and temporary employees.

Employees who are authorized to be absent will receive their regular pay without charge to their accrued leave balances for the duration of the reduced work force situation.

2. **Complete Closing**:

The Secretary of Administration may authorize the complete closing of a State office or facility for emergency reasons. In these situations, State offices are closed for business.

Employees who leave the workplace in these situations will receive their regular pay for the time that they are out of the closed office without charging to any leave balances.

Employees who are **required** by management to work during a complete emergency closing will receive **cash for all hours worked while the office or facility is closed, in addition to** the employee's regular pay. This does not apply to exempt, managerial, confidential, and temporary employees.

3. **Adverse Weather Conditions**:

To reduce driving hazards in severe weather conditions, the Secretary of Administration (with advice from the Agency of Transportation and the Department of Public Safety) may decide to delay the opening of some or all State offices or facilities or to close them early. If a delayed opening situation is decreed or approved by the Secretary of Administration, (s)he will contact Public Safety Headquarters Dispatch who will immediately notify local radio and television stations and ask them to broadcast a delayed opening message as early as possible prior to the normal commuting time of State employees. Employees should be instructed to tune in to their local radio or television stations when the weather is predicted to be adverse. If the State is officially closing, employees will be so notified.

If the Secretary of Administration decides to close State offices early due to adverse weather, (s)he will notify the Commissioner of Personnel who will be responsible for notifying agency/department heads as soon as possible. The electronic mail system (Office Vision) will be utilized to stay in contact with agencies and departments. Personnel officers are encouraged to stay logged on to Office Vision during adverse weather conditions so they may receive timely notification. The Department of Personnel will make calls to those departments who do not have access to Office Vision.

PROCEDURES

1. The Secretary of Administration (or designee) is the person who has the authority to decide on the appropriate response in an emergency situation. Authority may be delegated in the following situations:

- With prior approval of the Secretary of Administration, agency/department heads may be authorized to decide on the appropriate response in any emergency

situation, except adverse weather conditions, that affects only that particular agency or department. If the decision is made to close a particular office or facility, the Commissioner of Personnel must be notified immediately.

- With prior approval of the Secretary of Administration, an agency/department head may delegate to his or her district managers or directors the authority to close or keep open an office or facility in an emergency situation that affects only the district manager's or director's office or district operation.

2. Notification to the Department of Personnel will occur depending on the following circumstances:

- **Weather related**: The State Police Station Commanders will give advice to the Commissioner of Personnel if weather conditions exist for which closing offices or facilities may be appropriate.
- **Other conditions**: Each agency/department must designate someone in each office or facility who must notify the Commissioner of Personnel if other conditions exist (fire, flood, no heat or water, etc.) for which closing offices or facilities may be appropriate.

3. Management must notify employees as soon as practical that a reduced work force situation exists, and must establish the starting and ending times to avoid any confusion and problems in determining benefits, if any, for second and third shift employees.

4. In an extreme emergency (such as a fire), employees should be evacuated immediately and then management should notify the Department of Personnel Employee Relations Division (802-828-3454) of the situation as soon as possible.

5. When an emergency closing is approved, the appointing authority of the affected agency/department must notify the Employee Relations Division of the Department of Personnel, 110 State Street, Drawer 20, Montpelier, VT 05620-3001, in writing within two (2) days of the closing. The notification must include the following information:

- ☐ Starting and ending hours of the emergency closing.
- ☐ Departments affected (to include address of buildings involved).
- ☐ List of employees who were authorized to work during the closing.
- ☐ List of employees who were out on approved leave during the closing.

COMPENSATION FOR EMPLOYEES

Employees who are on authorized annual leave, sick leave, personal leave, compensatory time off, or on other paid leave, will not be charged leave time for the period of the emergency closing. The same provisions apply to delayed openings, early closing, or reduced work force situations.

Many employees have different work shift starting and ending times. As a result, a delayed opening or early closing may result in a difference in the amount of time not worked because of the emergency.

WORK RULES

Number 11.4

Effective Date: March 1, 1996

Subject: **WORK RULES**

Applicable To: All classified employees, as well as exempt, appointed, and temporary, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

To ensure conformance with the law and the Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA), all existing agency/department internal personnel rules of conduct and procedure should be put in writing.

DEFINITION

WORK RULES - shall relate to aspects of employment (such as Public Safety work rules outlining proper maintenance schedules for cruisers, Agency of Transportation rules for use of State-owned property and equipment), and not to fundamental conditions of work which give rise to a statutory bargaining obligation.

GENERAL GUIDELINES

Work rules promulgated by agencies, departments, or other appropriate units of State government must be written and implemented in accordance with the article pertaining to Work Rules in the appropriate bargaining unit contract.

Many agencies and departments do not have their own written work rules. However, all agencies and departments abide by the laws of the State of Vermont, the contract, and the State of Vermont Rules and Regulations for Personnel Administration, in addition to any work rules that they may have.

Appointing authorities are encouraged to establish work rules necessary for the efficient operation of their agencies/departments, and to put those rules in writing.

If management encounters a situation in which it may be necessary to implement work rules immediately, without providing fifteen (15) days' notice, they should contact the Employee Relations Division of the Department of Personnel at 802-828-3454. In addition, when developing new work rules, agencies and departments must call the Employee Relations Division which will review the rules to ensure that they conform with the law and the contract.

For those agencies and departments who have work rules, the appointing authority (or designee) must:

- notify all employees affected by the agency, department, or institution work rules in writing, by posting or otherwise, of those rules and changes to those rules at least fifteen (15) days prior to the date they become effective. The fifteen (15) day notice shall not apply in case of emergency.
- implement emergency rules pursuant to the Management Rights Article of the contract. The VSEA Executive Director shall be notified as soon as possible, and be provided with an opportunity to meet with appropriate State officials.
- provide written notification to the VSEA of all new rules and changes to existing rules concurrent with the notice to employees.
- properly maintain all work rules in a manner and location readily accessible to employees affected by the. The availability of these rules and their whereabouts shall be posted in prominent areas of the workplace and made available to employees and the VSEA upon request.
- ensure that all work rules are reasonable and relate to aspects of employment.

INCOME FROM OUTSIDE SOURCES (MOONLIGHTING)

Number 11.5

Effective Date: March 1, 1996

Subject: INCOME FROM OUTSIDE SOURCES (MOONLIGHTING)

Applicable To All classified employees, as well as exempt, temporary, contractual, and appointed, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

Employees in the classified service shall not use their positions to secure special privileges or exemptions for themselves or others. Employees shall not engage in any employment, activity, or enterprise which has been or may be determined by the appointing authority to be inconsistent, incompatible, or in conflict with their duties as classified employees, or with the duties, functions, or responsibilities of the agency by which they are employed. Employees may not accept any fee, compensation, gift, payment of expenses, or other thing of monetary value under circumstances which may result in a conflict with the employee's public duties.

Employees shall not directly solicit, receive, or agree to receive any compensation, gift, reward, or gratuity from any source except the State of Vermont for any matter or proceeding connected with or related to the duties of those employees, unless otherwise provided for by law.

GENERAL GUIDELINES

Employees in the classified service shall not have a personal interest in any business transaction within their area of influence in State government nor shall they have any private business relationship that may conflict with their public duties. This does not prohibit the following:

- participation in the affairs of charitable, religious, non-profit education, public service, political, or civic organizations;
- awards for meritorious public contributions given by public service or civic organizations.

Speeches and presentations which are related to State business and are delivered by a State employee to community and professional organizations will be made without charge. Employees may receive compensation or honoraria paid for public appearances or services unrelated to their official duties. Compensation or honoraria paid to employees for teaching or for appearances related to the employee's official responsibilities may be accepted if approved by the appointing authority.

Employees considering outside employment should consult with their agency/department personnel officer first. With approval of the appointing authority, the personnel officer should then consult with the Employee Relations Division of the Department of Personnel before commitments are made by employees.

NO SOLICITATION POLICY

Number 11.6

Effective Date: March 1, 1996

Subject: **NO SOLICITATION POLICY**

Applicable To: All classified employees, as well as exempt, appointed and temporary, with the Executive Branch with the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The soliciting of money, contributions, subscriptions, organizational or group membership, commercial soliciting and vending of all kinds, the display or distribution of commercial advertising, pamphlets, handbills and flyers, or the collection of premiums, payments or private debts, and campaigning in or on State property, both during and after normal working hours, is prohibited, unless as otherwise permitted by law or State building rules.

This policy does not apply to newspaper boys and girls, farmers selling home grown produce, the State Employees' Combined Charitable Appeal (SECCA), or personal notices posted on authorized bulletin boards by State employees.

For further information, questions, or exceptions to this policy, contact the Department of State Buildings at 802-828-3314.

ELECTRONIC COMMUNICATIONS AND INTERNET USE

Number 11.7

Effective Date: August 14, 2009
Supersedes Policy 11.7 dated July 1, 1999 and dated September 18, 2007

Subject: **ELECTRONIC COMMUNICATIONS AND INTERNET USE**

Applicable to: All classified, temporary and exempt employees of the State of Vermont, including all members of the executive branch and members of the boards and commissions who are authorized to use the State Internet service or electronic/wireless communication devices/systems.

Issued By: Department of Human Resources

Approved by: Michael K. Smith, Secretary of Administration

PURPOSE:

To prescribe rules of conduct and procedure for State employees when using or accessing state government of Vermont (State) owned or provided computers, electronic communication devices/systems. These rules also apply to electronic communications or transactions in which a state employee represents him/herself as a State employee, regardless of whether he or she is using or accessing State equipment.

DEFINITIONS

“Access” means the ability to enter a system or application or the act of doing so, depending on context.

"Agency" means a state board, commission, department, agency, or other entity or officer of state government, other than the legislature and the courts.

"Agency systems" or "systems" means all agency software, electronic information devices, interconnections, intranet and technical information related to them. Systems include other systems accessed by or through those devices, such as the Internet, email, or telephone services. Systems include designs, specifications, passwords, access codes and encryption codes.

“Control” refers to the power held by the Agencies to grant or deny access to all agency systems and the agency’s power to trace, review, audit, access, intercept, block, restrict, screen, delete, recover, restore, publish or disclose any information at any time without notice.

"Electronic/wireless communication devices" or “electronic/wireless devices” includes but is not limited to: cellular phones, Blackberries, personal digital assistants (PDAs), and other such mobile devices used to access electronic mail, telephone, and Internet service.

"Information" means information of any kind, used in any way, in agency systems. Examples include messages, communications, emails, files, records, recordings, transmissions, signals, programs, macros, and data.

POLICY:

The State purchases computers, electronic/wireless devices, and Internet services for use by Agencies to meet the operational and programmatic needs of their units. This policy provides guidelines for acceptable access and use, and prohibits any use of systems, the Internet, or electronic or wireless device, by State employees that violates Federal or State laws or regulations.

As defined by this policy, systems and information are State property. Each agency has full control and access as defined above. All systems and information therein are, and shall remain, the property of each agency, subject to its sole control. Each agency owns all legal rights to control, transfer, or use all or any part or product of its systems. All uses must comply with this policy. Nothing in this policy shall be construed to abridge any rights of an agency to control its systems, their uses or information. ***This policy does not impair the right and obligation of Agencies to limit access to systems and records that contain information that is subject to any statutory, regulatory, or common law privilege or obligation to limit access, nor does it alter any agency's rights or obligations under the Vermont public records law (1 V.S.A. § 315, et seq.).***

<u>Authorized Limited Personal Use</u>

Internet, electronic and wireless communication devices and services, and email capabilities are resources to facilitate the work of State government. This policy provides for use by authorized State employees that is consistent with **Personnel Policies and Procedures**, Number 5.6, entitled "Employee Conduct," which states that employees shall not use or attempt to use State personnel, property, or equipment for their private use or for any use not required for the proper discharge of their official duties. That policy has been interpreted to allow a limited degree of personal use of State telephones for private calls when such use meets certain guidelines. Similar allowances will be applied to Internet, electronic and wireless communication devices and services, and email capabilities where personal use meets all of the following tests. No such use will be allowed where any of the following is not met:

- The user must be authorized to use the equipment by management. Managers will exercise reasonable discretion in determining which employees will be denied personal use of Internet or electronic and wireless communication

devices and services, including when such use is denied because of abuse or violation of this policy.
  - The use must not interfere with an employee's performance of job duties.
  - The use must not impose a burden on State resources as a result of frequency or volume of use.
  - The use must not otherwise violate this policy, including the prohibition on visiting sites that include potentially offensive or disruptive material. The fact that the use occurs in a private setting or outside of scheduled work hours does not affect this prohibition.

RULES FOR USE OF SYSTEMS OR INTERNET SERVICES

1. Employees with access to systems or the Internet have the responsibility not to disclose their access codes or passwords.
2. Passwords, scramblers or various encryption methods may not be used without agency approval, access and control. No user may attempt to access, copy, forward, delete, or alter the messages of any other user without agency authorization. No agency system may be used to attempt unauthorized access to any information system. No user may use any type of file removal/deletion program on any State computer system without assistance and approval of authorized agency representatives.
3. No employee shall send email that is, or appears to be, sent from another employee's email or that attempts to mask identity. This prohibition does not include email sent with the user's permission that clearly presents the sender's identity.
4. State employees must conform to reasonable professional standards for use of Internet services as detailed in this guideline. This includes a prohibition against any activity that impairs operation of any state computer resource. Such activities include, but are not limited to, sending junk mail such as chain letters, unsolicited commercial email, and/or pyramid schemes, injecting computer viruses or unofficial mass mailings via email. This also includes hacking, which means gaining or attempting to gain unauthorized access to any computers, computer networks, databases, data, or electronically stored information, unless acting within the proper scope of official duties.
5. Employees must be mindful that email messages and other electronic data may be considered public records subject to disclosure under the Vermont Public Records Act (1 V.S.A. § 315, et seq.).
6. Employees must respect intellectual property rights at all times when obtaining information over the Internet. Copyrighted or licensed information shall be used only with full legal right to do so.
7. Use of the Internet including email is for State business. The only exception is for personal use that fully complies with the limited personal use described by this policy. The use of peer-to-peer (referred to as P2P) networks such as Napster, Kazaa, Gnutella, Grokster, Limewire, and similar services is prohibited. Any use that is not for State business or authorized limited personal use consistent with this policy may result in revocation of Internet access, other appropriate administrative action, or disciplinary or corrective action.
8. Use of agency systems or printers for offensive or disruptive purposes is prohibited. This prohibition includes profanity, vulgarity, sexual content or character slurs. Any

inappropriate reference, regardless of whether presented as a statement, language, image, email signature block, audio file, or in any other way that is reasonably likely to be perceived as offensive or disparaging of others on the basis of race, color, age, gender, sexual orientation, gender identity, religions, national origin or disability is also prohibited.

9. An appointing authority of an agency reserves and may exercise all rights relating to information used in its systems. An agency may trace, review, audit, access, intercept, block, restrict, screen, delete, recover, restore, publish or disclose any information used in its systems subject to relevant policies, laws, and regulations.
10. Agencies have the right to monitor their systems and Internet activities of employees. Monitoring may occur in, but is not limited to, circumstances when there is a reason to suspect that an employee is involved in activities that are prohibited by law, violate State policy or regulations, or jeopardize the integrity and/or performance of the computer systems of State government. Monitoring may also occur in the normal course of network administration and trouble-shooting, or on a random basis using electronic tools designed to monitor Internet usage. Agencies must limit access to reports that may be generated by such programs and ensure that records of Internet usage are disclosed to only their appropriate human resources, management, and investigatory staff unless and until it becomes evidence of employee misconduct in which case it is may be used in the same manner and is subject to the same rules of evidence as any other information that is part of a formal investigation into employee conduct. **Agencies must ensure that systems administrators and technicians involved in monitoring, or who otherwise have access to systems and records that contain information that is subject to any statutory, regulatory, or common law privilege or obligation to limit access, are appropriately trained on any requirements to respect such privilege or confidentiality, and directed to comply with such requirements.**
11. Use of fee-for-service providers is not allowed unless the necessary approvals and funding have been obtained in advance. An employee who obligates an agency to pay for services without prior approval may be held personally liable for those costs and may be subject to disciplinary action up to and including dismissal.
12. Prohibited activities also include, but are not limited to the following: lobbying public officials or asking others to lobby in their behalf, printing and/or distributing information from the Internet that is obscene, potentially offensive, harassing, or disruptive.
13. Using or allowing others to use State Internet services or email accounts to conduct transactions or advertising for a personal profit-making business is strictly forbidden. Use of State Internet services for purposes of accessing sites that provide streaming audio or video material for non-work related purposes is prohibited.
14. Use of State computer systems for solicitation for charitable or other causes is prohibited, except for officially-sanctioned activities.

Section 12

COMPENSATION FOR CLASSIFIED EMPLOYEES

Number 12.0

Effective Date: March 1, 1996
Subject: **COMPENSATION FOR CLASSIFIED EMPLOYEES**
Revised Date: October 1, 1999

Applicable To: All classified and temporary employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The State maintains a single compensation plan (the classified pay plan). This salary plan covers all classified employees as required by 3 VSA §310. The plan is based on principles of internal alignment for uniformity and equity. Compensation for employees covered by this plan is in accordance with provisions adopted by the Secretary of Administration through the Commissioner of Personnel, subject to the collective bargaining rights provided in 3 VSA §904, and approval by the General Assembly.

Salary ranges with minimum and maximum salaries are established and classes are assigned to salary ranges based upon the job evaluation system adopted for implementation of the State classification plan (See Number 6.1, Position Evaluation System).

DEFINITIONS

BASIC WEEKLY SALARY - the minimum compensation to which an employee is entitled under the State's classified plan.

CLASSIFIED EMPLOYEE - an employee of the State of Vermont who is hired to fill a position in the classified service.

EXEMPTED SERVICE EMPLOYEE - an employee hired to fill a position excluded from the classified service by statutory authority.

PAY GRADE - one of the established ranges within the total classified plan for which minimum and maximum rates are established. Each class is assigned to a pay grade.

ANNUAL SALARY - the amount of compensation obtained by multiplying the basic weekly salary by fifty-two (52).

GENERAL GUIDELINES

Specific features of the classified pay plan include:

- Step advancement within salary range based on longevity and satisfactory performance. Employees may have their hourly rate increased after a specific length of time at the current rate by advancing a step. (See Number 12.1, Step Advancement).
- Merit increases may be granted for exceptional performance (See Number 7.1, Merit Awards).
- Market rate differentials granted to specific groups of positions (see Number 12.3, Market Factor Adjustment).
- Hiring above the minimum of the salary range in appropriate instances. (See Number 12.2, Hire-Into-Range)
- End of Probation increases for employees who have completed their original probationary period within the classified service.

In addition, movement within the classified pay plan is possible when employees accept promotions (an appointment to a job in a higher pay grade), demotions (a voluntary or involuntary appointment to a lower pay grade), or changes in the pay grade assignment through reallocations or reassignment actions (See Number 6.2, Classification Review).

The provisions of the classified pay plan are applied in the same manner to all employees covered by the classified pay plan. These provisions govern changes to an employee's pay based on hires, promotions, merit increases, step increases, demotions, reclassification actions, and probationary increases

Provisions of the Rules & Regulations for Personnel Administration (See Number 2.3) governing the pay of classified employees and the Salaries and Wages Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) must be followed. A complete salary grid detailing the hourly rates of pay within each of the twenty-eight (28) pay grades, may be found in the Appendix section of the current labor agreement.

Section 12.00 - Periodic Salary Adjustment

Cost of living adjustments to the classified pay plan are negotiated through the collective bargaining process. When these salary adjustments are approved, the plan is adjusted accordingly.

Section 12.01 - Salary on Promotion, Demotion, Reclassification

Employees who have completed an original probationary period in the classified service receive a salary rate at least equivalent to the End-of-Probation Rate (EOP) established for that pay grade (usually the end-of-probation rate is step 2 of the pay grade).

Employees must successfully complete any required original or promotional probationary period (usually six months) in order to achieve tenured status at that salary level.

Promotions: When employees are appointed to a job at a higher pay grade the hourly rate is increased, based on the promotional rate of increase in the current collective bargaining agreement. The current rate is 5% for positions one (1) or two (2) pay grades higher, and 8% for positions three (3) or more pay grades higher.

An employee's pay is increased by the applicable percentage and then placed on the hourly step rate of the new pay grade which is closest to, but not lower than the new pay amount. The new rate may not be less than the EOP rate established for the new pay grade, nor higher than the maximum.

If an employee is promoted while in an original probationary period, the employee is placed at the minimum (step 1) of the new pay grade and begins a new probationary period. However, probationary employees initially hired into range are placed at the minimum of the new pay grade, unless the appointing authority requests a new hire-into-range rate for advance approval by the Department of Personnel.

Demotions: When an employee is appointed to a job at a lower pay grade the hourly rate is decreased by the demotion rate outlined in the current collective bargaining agreement. That rate is currently at least 1.5% and no more than 5% of the employee's salary. For disciplinary demotions under 6.072 of the Rules and Regulations for Personnel Administration, the hourly rate is an amount not less than 5% of the employee's salary (See Number 2.3, Rules and Regulations).

An employee's pay is decreased by 1.5% or 5% and then placed on the hourly rate (step) in the new pay grade which is closest to, but not higher than the computed amount. It may not be higher than the maximum of the new pay grade, or lower than the EOP rate.

If a demotion occurs when an employee is in an original probationary period, the employee is placed at the minimum (step 1) of the new pay grade and begins a new probationary period. However, probationary employees initially hired-into-range are placed at the minimum of the new pay grade unless the appointing authority requests a new hire-into-range rate for advance approval by the Department of Personnel.

Promotional Probationary Periods for Salary Computation: Employees may not receive more than one promotional increase within the same six (6) month period. For

this reason, an employee is required to serve a new "promotional probationary period" after receiving a promotional increase by: appointment to a new job; reallocation; or reassignment to a higher pay grade.

Employees promoted within the six month promotional probationary period will have their new salary computed based on the salary in their last position where they completed any required probationary period plus the promotional increase. However, in no circumstances may an employee's new salary be lower than the employees most recent salary.

Employees who do receive a promotion during their six (6) month promotional probationary period will have their salary computed based upon the rate it was in the last position in which they completed any required probationary period. This computation will not result in any loss of pay to the employee, but may not result in as large a salary increase as the most recent promotion.

If an employee is demoted within the six (6) month promotional probationary period, the employee's new salary will be computed by applying the demotion rate to the old salary in the last position for which they completed the required probationary period.

Restoration Salary Methods: Employees whose salaries are reduced due to voluntary demotions have restoration rights to their previous tenured rate of pay and pay grade for two (2) years. If during that two (2) year period they move to a higher pay grade, their salaries will be computed as follows:

- If the new pay grade is lower than the restoration pay grade, the promotional rate is applied provided it does not exceed the restoration salary.
- If the new pay grade is the same as the restoration pay grade, the employee's salary is placed at the restoration level.
- If the new pay grade is higher than the restoration pay grade, the employee receives the normal promotional rate. The "normal promotional rate" in such a circumstance is calculated by adding the contractually prescribed promotional increase to the restoration rate within the permissible salary range selected by the appointing authority. (See Personnel Rules, Section 6.077). The amount of the contractually prescribed promotional increase is based on the difference in paygrade between the restoration pay grade and the pay grade of the new position.

Example: An employee is working at pay grade 20, but has restoration rights to pay grade 22 as a result of having previously established permanent status at pay grade 22. The employee is selected for a promotion to pay grade 24. The appointing authority can exercise some discretion in determining what this employee's "restoration salary" may be. See Section 6.077 of the Personnel Rules and Regulations. In this case, the percentage promotional rate of pay is based on a promotion from pay grade 22 to pay grade 24 (not 20 to 24) and is therefore 5% under current contract. The 5% promotion

rate is then applied to the selected "restoration salary" (i.e., that step in pay grade 22 that the appointing authority has selected.)

"Restoration salary" includes the employee's previous tenured salary at the higher pay grade, plus the step increments which would have occurred had the employee remained at that pay grade so long as they receive satisfactory evaluations.

Reclassification: Actions involving the assignment of a position to a higher or lower pay grade have the same effect on employees' pay as promotions and demotions (See Number 6.2, Classification Review).

For assistance in making any determination based on this policy, please call the Director of Classification, at the Department of Personnel at (802) 828-3609.

Signed By Kathleen C. Hoyt, October 25, 1999

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Approved, Secretary of Administration

STEP MOVEMENT

Number 12.1

Effective Date: March 1, 1996

Subject: **STEP MOVEMENT**

Applicable To: All classified employees, as well as Exempt employees assigned to the classified pay plan, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

Step movement to the next higher pay rate within the salary range for a particular pay grade is a function of the length of time spent at the previous rate of pay rather than on overall length of State service. Step advancement is contingent upon satisfactory performance.

The purpose of this policy is to outline the manner in which employees may advance to the next higher step rate within their pay grade.

DEFINITIONS

STEP - an interval that separates one level of salary from another within a pay grade.

STEP DATE - The day, month, and year that employees are eligible for advancement to the next higher rate of pay (step) within their pay grade. Assuming no changes in an employee's pay grade, it represents the amount of time required at one rate of pay before becoming automatically eligible for the next rate of pay within the range.

GENERAL GUIDELINES

The State classified pay plan consists of twenty-eight (28) pay grades. Positions are assigned to a pay grade according to the criteria outlined in the classification plan and the point factor system for position evaluation.

Each pay grade contains fifteen (15) rates of pay (steps). Steps 1 and 15 are the minimum and the maximum rates for the salary range. All employees in positions covered by the classified pay plan are assigned to a step in accordance with the current

contract. Usually, the salary for newly hired employees is step 1 (the probationary rate). The next step is known as the end-of-probation rate (EOP).

The Salaries and Wages Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) must be adhered to when implementing this policy.

The Appendices to the contract contain the rates of pay for each of the fifteen (15) steps within each of the twenty-eight (28) pay grades.

REQUIRED TIME ON STEP

Eligibility for advancement within the pay grade (step date) is contained in and governed by the terms of the contract. The current schedule is as follows:

Step 1 - (probation) - normally six months*
Step 2 - (end of probation) - one year
Step 3 - one year
Step 4 - one year
Step 5 - one year
Step 6 - two years
Step 7 - two years
Step 8 - two years
Step 9 - two years
Step 10 - two years
Step 11 - two years
Step 12 - two years
Step 13 - three years
Step 14 - three years
Step 15 - final step

* Employees who are in job classes with probationary periods that are longer than (6) months may be eligible for step movement at the end of six (6) months without regard to their probationary status.

Employees who are hired-into-range (See Number 12.2, Hire-Into-Range) above step 1, do not qualify for advancement upon completion of probation.

ADVANCEMENT

Step Date - After completing the required time on a step, the employee advances to the next higher step in the pay grade.

Though step dates can occur in the middle of a pay period, an employee's pay can change **only** at the beginning of the next full pay period. The employee's new step date is calculated by adding the requisite time requirement for the new step (one, two or

three years) to the old step date. The new step date identifies when the employee is eligible for advancement to the next higher rate.

The effective date of a step increase for an employee whose step date is the first day of a pay period shall be the beginning of that pay period.

Changing Step Dates - Changes in step dates occur whenever there is a change in pay resulting from reclassification, reassignment of pay grade, promotion, or demotion. Step dates are calculated and adjusted based on the effective date of such changes in pay or status.

When employees move to another pay grade on a temporary assignment, the step date also changes. However, when employees are returned to their previous pay or status, the previous step date is reinstated.

ANNUAL PERFORMANCE EVALUATION CRITERIA

Satisfactory or Higher Rating - Movement to a higher step is contingent upon satisfactory performance and the required time specified in the contract.

Unsatisfactory Rating - Employees who fail to achieve at least a satisfactory rating on their annual performance evaluation will lose credit for that year's service, and will have one (1) year added to their step date.

Extension of Original Probation - Employees whose original probationary period is extended will have their step date adjusted to correspond to the length of the extension of probation.

Warning Period - Employees whose step date falls during a performance warning period will not move to a higher step until they receive an overall performance rating of at least satisfactory. An employee's next step date will not change as a result of this delay in step movement.

HIRE-INTO-RANGE

Number 12.2

Effective Date: March 1, 1996

Subject: **HIRE-INTO-RANGE**

Applicable To: All classified employees, as well as temporary and exempt, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this policy is to provide for exceptions to the compensation plan for the initial hiring of certain individuals. The State's classified pay plan provides internal equity by establishing a common set of salary ranges for each position. Entry level rates, maximum rates and the systematic method for employees to move within the salary range are uniform and applied consistently for all employees governed by the compensation plan. At times there may be a compelling reason to make an exception to the basic principle that employees are hired at the entry rate established for the job.

PHILOSOPHY OF HIRE-INTO-RANGE

The minimum rate of pay for a class is step 1 in the salary range. Step 1 is also the normal hiring rate established for most positions, and is the salary usually offered to applicants when they apply for positions in State Government. In rare circumstances a special exception can be approved for an applicant. These exceptions can only be offered if prior approval is granted by the Department of Personnel for reasons as follows:

- There is a shortage of qualified applicants for the position;
- an applicant who has special qualifications, training, or experience that while are not necessarily a requirement of the job, have some unique value to the organization;
- the candidate possesses exceptional and outstanding qualifications that exceed those of other applicants and to such an extent that not hiring that particular employee will be detrimental to the State.

A hire-into-range does not apply to applicants who are already classified employees who have completed their original probationary period.

The Department of Personnel will not consider a request to hire an employee above the minimum rate until the recruitment, examination, certification, and interview process is completed.

The Department of Personnel must approve a request in advance of any salary offer to an applicant. Several factors are considered:

- ☐ the recruitment and retention experience for the position;
- ☐ the salary market for the particular type of expertise;
- ☐ the impact of the vacancy on program service;
- ☐ the impact on current incumbents with similar qualifications;
- ☐ the candidate's current rate of compensation.

GUIDELINES FOR HIRE-INTO-RANGE REQUESTS

The Department of Personnel has the responsibility to ensure appointing authorities maintain practices that preserve internal equity and adhere to the principles of the classified pay plan.

This procedure applies to the hiring of candidates into classified, temporary, part-time, and exempt positions at any rate above the minimum pay grade or salary range (unless a permanent adjusted hiring rate (See 12.3, Market Factor Analysis) has been approved).

Agencies or departments must submit a request to the Department of Personnel, Compensation Unit which includes the following information:

1. Candidate and Job Information:

   - The candidate's name, the salary rate or step being requested, and the position number, class, and pay grade of the job for which the candidate is being considered.

   - The candidate's qualifications including their *Standard State of Vermont Employment Application* and resume.

   - A narrative describing the following: qualifications of other applicants; qualifications of staff serving in the same class as the prospective candidate; and a candidate profile (e.g. length of service, salary, position, and performance history).

- Explain in particular how this candidate merits the proposed rate and how the request meets the regulatory standards under which the salary exception may be granted.
- List the candidate's annual compensation in his or her current or most recent position.

2. **Hiring Process**:

- A summary of recruitment efforts and results, including the following information: type and dates of advertising (newspapers, journals, etc.); number of applicants; number of applicants found eligible; number of applicants interviewed; and a copy of the hiring certificate (with applications and resumes attached).

- Consideration given to State employees on the hiring certificate.

- Provide turnover/vacancy data for the position class over the last two (2) years.

3. **Implications**:

- List other employees or classes that will potentially be affected by this hire-into-range request. Include information regarding recent hires in the same or similar class and any other factors which should be considered.

MISCELLANEOUS

No salary offer should be discussed with a candidate until hire-into-range approval has been granted by the Department of Personnel. Any offer or commitment made by an appointing authority without advanced approval from the Department of Personnel is unauthorized and not binding on the State.

The Department of Personnel will review the request and will generally respond within five (5) workdays or less.

Hire-into-range does not apply to current employees; or those employees formerly on leave from classified service employed in an "exempt" capacity and returning to a classified position; or those employees who are returning within two (2) years of a break in service. The rate of pay would be determined by the salary compensation method outlined in the current contract in effect when the employee returns from the leave.

An employee hired-into-range shall not be eligible for an end-of-probation increase.

MARKET FACTOR ADJUSTMENT

Number 12.3

Effective Date: March 1, 1996

Revised: **February 1, 2003**

Subject: **MARKET FACTOR ADJUSTMENT**

Applicable To: All classified employees with the Executive Branch of the State of Vermont

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT A Market Factor Adjustment (MFA) is a temporary supplement to the regular base hourly pay rates for certain job classes, implemented at the State's discretion, to support effective recruitment and retention of employees in job classes affected by unusual labor market conditions.

A MFA is based upon the desire and the ability of the State to temporarily supplement pay rates for specific classes. For that reason, any or all MFA's may be implemented, reduced or eliminated at the State's discretion, subject to Vermont Statute and the provisions of the current labor agreement.

Types of Market Factor Adjustments: Market factor adjustments may include, but are not limited to, the following:

- Percent of Base Rate Supplement: A percentage of the base hourly rates for a particular class and/or associated class paid as a supplement to the base rate.
- Flat Dollar Supplement: A specific dollar amount paid as a supplement to the base rate to employees in a particular class and/or associated class. For example, every employee in a job class or associated class may receive $1.00 per hour as a supplement to their base rate regardless of their step in the pay grade.
- A Combination Of Supplements
- Other Types Of Supplements

A Market Factor Adjustment may, at the State's discretion, be implemented for any job class and/or associated class when either or both of the following conditions exist:

- There is documentation of a demonstrated and substantial difficulty in recruiting applicants for the particular job class in a defined labor market area.
- Retention of current employees is jeopardized by the limits of the compensation plans when compared to appropriate labor market rates.

Market Factor Adjustments generally apply to only those classes that require a professional degree, license, or certification, or that require specialized training, skills, education, and/or experience in a unique discipline, field, or occupation.

ATTACHMENT A – INITIATION OF A MARKET FACTOR REVIEW

I. INITIATION OF A MARKET FACTOR REVIEW

- NEW MARKET FACTOR ADJUSTMENTS: The Employment Services Group of the Department of Personnel may initiate a Market Factor Review if it becomes evident that labor market conditions are affecting the ability of the State to effectively recruit and retain employees in a particular class and/or associated class.

  Agency/Department Hiring Authorities may request that a job class be considered for review by the Department of Personnel by contacting the Compensation Unit of the Department of Personnel. A market study will be conducted only if there is clear and documented evidence of compensation-related recruitment and/or retention issues for that particular class. The appointing authority's request for a market factor adjustment review must include information that clearly demonstrates that the established salary range is not adequate to attract or retain qualified employees in a specific class and/or associated class.

  Required Documentation: An Agency/Departmental request for a new or revised MFA must include the following information and documentation:

  1. Class, title, pay grade, and the number of filled and vacant positions in that job class and any associated classes within the agency/department.
  2. Information on classification history of the job class requested for review- for example: dates and results of most recent classification review and the effect on recruitment.
  3. Unique or special skills, training, education, or experience required of the position.
  4. A history of recruitment/turnover activity for the entire two years preceding the date of the request to include turnover history, the quantity and qualifications of applicants, what recruitment actions have been taken and their results, and the amount of time positions have remained vacant during active recruitment.
  5. The geographic market area that is used for recruitment of the job classes requested for review (local, state, regional, national).

6. Source and availability of continuing funds that would support the requested MFA.

A Request for Review will not be considered if documentation is not complete as outlined above.

Evaluation of Agency/Department Request: An evaluation will be made of the required data provided by the agency/department (as outlined above) to determine if sufficient evidence has been presented to support the need for a review. If a review is undertaken, the "Review Steps" as outlined in Section II of these procedures will apply. If a review is not deemed necessary, the Compensation Unit will notify the agency in writing as to the reasons for the decision.

Salary Survey Costs: The costs for any salary survey information that are incurred by the Compensation Unit in conducting a MFA review will be charged back to the requesting agency or department by the Department of Personnel.

II. REVIEW STEPS 1. MFA Review Conference: A Market Factor Review Conference, chaired by a representative of the Compensation Unit, will be held to discuss the requested MFA. This conference will include the Agency/Department Head, Personnel Officer, Business Manager, and Budget & Management Analyst for any agency or department that may be affected by the implementation of a Market Factor Adjustment to the job class or classes in question. Other DOP or Agency/Department representatives may be included as required. Discussion will focus on the following:

- Recruitment and retention data and issues experienced by the agency/department.
- Potential financial and employee relations impact of an MFA on the agency/department.
- Relevant labor market for the job classes under review.
- Other issues that may be contributing to recruitment and retention problems and possible solutions.
- Options available to influence more effective recruitment and retention.
- Salary information that will be required to conduct the review and the resulting costs for the requesting agency/department.

2. Summary of Market Factor Review: Upon completion of the review, the DOP Compensation Unit will issue a summary document explaining the results of the review and the preliminary recommendation to the Commissioner of Personnel.

3. Sunset Period Established: MFA's implemented after February 1, 2003 will have an established sunset date that is no later than two years from the effective date of the implementation of the MFA. The Compensation Unit summary will include a recommendation for an appropriate sunset period.

4. Review and Recommendation by Commissioner of Personnel: The summary document and the recommendation are forwarded to the Commissioner of Personnel. If the Commissioner approves an adjustment, the Vermont State Employees Association (VSEA) is given a copy of the MFA summary and has an opportunity to negotiate the impact of the decision with the DOP as specified in the Wage and Salary Article of the current labor agreement. If the Commissioner does not approve the recommendation, the requesting Agency will be notified in writing by the DOP.

5. Secretary of Administration: If the Commissioner of DOP recommends approval of an MFA, the recommendation is then submitted to the Secretary of Administration for final approval. A copy of the recommendation is also forwarded to the Department of Finance and Management for recommendation. If the proposed adjustment is changed during this process, the State shall notify VSEA according to the procedure outlined in the Wage and Salary Article of the current labor agreement. The Secretary of Administration has final authority to approve, deny, or modify MFA recommendations from the Commissioner of Personnel or the Commissioner of Finance and Management.

III. Communication Of Review Results

- Post-Review Meeting: A meeting will be held with affected agency/department heads following completion of an MFA analysis. Attendees of original MFA Review Conference will be invited to attend to discuss results of review and next steps.

IV. Implementation Procedures

- Effective Date Of Supplemental Increase If MFA Is Newly Established Or Existing MFA Is Increased: The effective date of the MFA supplement will be established in the review process but in no event will it be earlier than the first day of the pay period following approval by the Secretary of Administration.
- Effective Date of Supplemental Reduction If MFA Is Reduced Or Eliminated (Any MFA Implemented After February 1, 2003): Six (6) months notice will be given to affected employees before an MFA is reduced or eliminated.

V. Employee Notification

Agency hiring personnel are responsible for clearly communicating the temporary nature of any MFA supplement to both job applicants and current employees. The salary breakdown information shall be in writing and signed by the employee indicating his or her awareness and understanding of the amount and the temporary nature of any MFA supplement to their regular hourly rate of compensation. This document must then be retained in the employee's official personnel file. (Form # MF-1 available to print/download on the DOP website should be utilized for this purpose)

VI. Sunset Date

When established, each MFA supplement implemented after February 1, 2003 must have an established sunset date no later than two years from the effective date of the implementation of the MFA. The Department of Personnel may conduct a follow up review at their discretion. Any affected agency/department may request a follow-up review and analysis no sooner than twelve (12) months after the effective date of the MFA by following procedure as outlined in Section I ("Initiation of a Market Factor Review") of these procedural guidelines. At the State's discretion, the MFA may be continued, modified, or eliminated at any time with or without review in accordance with Vermont Statute and the current labor agreement.

Approved by Sean Campbell January 2, 2003
Secretary of Administration Date

SHIFT DIFFERENTIAL

Number 12.4

Effective: March 1,1996

Subject: **SHIFT DIFFERENTIAL**

Applicable To: All classified bargaining unit employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It is the policy of the State of Vermont to provide additional compensation to employees who are required to work evenings and nights as part of their regularly scheduled duty assignment.

The purpose of this policy is to define shift differential and set forth the circumstances under which it is paid.

GENERAL GUIDELINES

The Shift Differential Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) must be adhered to when administering this policy.

Non-bargaining unit employees may be eligible for shift differential if specified in the Extension of Benefits (See Appendix D of this manual, Extension of Benefits).

Employees receive:

- second shift differential if they work at least two (2) hours of an assigned shift which contains at least two (2) hours between 6:00 p.m. and midnight;
- third shift differential if they work at least two (2) hours of an assigned shift which contains at least two (2) hours between midnight and 6:00 a.m. (after 2:30 a.m. for State Police).

Employees in overtime categories 13 and 18 are not eligible for shift differential. Other categories of employees may be specifically excluded by contractual agreement or regulation.

Employees regularly assigned to the first shift are not eligible for shift differential if they work overtime on a second or third shift.

SHIFT DIFFERENTIAL RATES

The rates for shift differential are contained in the contract.

Shift differential is added to the basic hourly rate before cash overtime is computed.

HIGHER ASSIGNMENT PAY

Number 12.5

Effective Date: March 1, 1996

Subject: **HIGHER ASSIGNMENT PAY**

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It is generally the policy of the State of Vermont to provide additional compensation to employees who are required to work in higher level jobs.

The purpose of this policy is to define higher assignment pay, and set forth the circumstances under which it is paid.

GENERAL GUIDELINES

The Higher Assignment Pay Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association (VSEA) must be adhered to when implementing this policy.

Non-bargaining unit employees may be eligible for higher assignment pay if specified in the Extension of Benefits (See Appendix D of this manual).

An employee who, in the absence of an incumbent, is assigned by the appointing authority to perform at a higher level may, for a short period of time, be entitled to higher assignment pay. "Higher level" is defined as at least one (1) pay grade higher than the employee's current pay grade and:

- The employee must perform a majority of those duties of the higher level job which are substantially different from his or her own duties; or
- The employee must be assigned to assume the responsibilities of a higher level supervisory or managerial job, as needed, without any substantial change in their own duties.

The above conditions apply to all employees except those covered by the State Police and Corrections contracts.

Employees covered by the State Police and Corrections bargaining contracts must "take over the job of the higher level position". This means that the employee is required by the appropriate authority to perform a majority of those duties of the higher-level job which are substantially different from his or her own normal duties.

Additionally, the employee will be held accountable for performance in the same manner as newly assigned permanent employees.

If there is no captain, lieutenant, sergeant, or senior trooper available for an entire shift in that particular station, then a trooper 1c is eligible for higher assignment pay to the senior trooper level.

ELIGIBILITY

To be eligible for higher assignment pay, an employee must have worked five (5) consecutive full shifts at the higher level (one full shift for State Police and Corrections bargaining unit employees). Any paid leave time used during this initial five (5) day period (either full or partial day absences) will not count as part of the five (5) day eligibility period. After returning from leave, the employee will be required to continue the five (5) consecutive full shifts actually worked in order to qualify (See Attachment A, Higher Assignment Pay 5 Day Eligibility Chart).

Scheduled days off will not be counted as part of the five (5) consecutive days, nor constitute a break in the qualification period.

Unworked holidays will not be considered as part of the five (5) consecutive days.

Once the eligibility threshold has been met, the employee will not receive any higher assignment rate for any portion of a day in which there was time spent on leave status, off payroll, holidays, administrative days off, scheduled or unscheduled days off, or any other authorized or unauthorized absence.

Employees in the following categories are not eligible to receive higher assignment pay:

- positions designated as trainee classes;
- automatic reallocation classes (See Number 6.5, Decentralized Reallocation);
- employees whose class specifications clearly require them to fill in and assume the higher level duties.

An employee assuming a supervisory position in an institution (such as Woodside, the Vermont Veterans' Home, and the State Hospital) where the policy requires that person to be in a "charge" or command capacity, will be eligible for this differential for each full

shift actually worked, and will not be subject to the five (5) consecutive days eligibility criteria as outlined above.

COMPENSATION

At the conclusion of the fifth (5th) consecutive workday when the eligibility threshold has been met, the employee will receive higher assignment pay retroactive to the first day, and for each consecutive, qualifying workday thereafter. From the sixth (6th) day on, if the employee takes approved leave, off payroll, or holidays off, the employee will continue to be eligible for higher assignment upon return to the higher assignment without having to requalify for eligibility, provided that no other employee has been granted this assignment during the absence.

The employee will not receive higher assignment pay for hours or days not actually worked in the higher level position.

The higher assignment rate is equal to the rate on promotion to the higher level in the Salary Article of the current contract. In no case will the salary exceed the maximum or be less than the minimum of the pay grade of the higher level position.

An employee's overtime category **will not** change when working in this status.

ATTACHMENT A - HIGHER ASSIGNMENT PAY 5 DAY ELIGIBILITY CHART

	Break in Higher Assignment	Count Toward the 5 Days	Paid
INITIAL 5 DAY QUALIFICATION PERIOD:			
Regular scheduled day worked	NO	YES	YES+
Holidays unworked	NO	NO	NO
Holidays partially worked	NO	YES*	YES*
Days off unworked	NO	NO	NO
Days off partially worked	NO	YES*	YES*
Leave usage full day	NO	NO	NO
Leave usage partial day	NO	YES*	YES*
Holiday worked full day	NO	YES	YES+
Days off worked full day	NO	YES	YES+
SUBSEQUENT CONSECUTIVE DAYS ASSIGNED:			
Regular scheduled day worked	NO	--	YES+
Holidays unworked	NO	--	NO
Holidays partially worked	NO	--	YES*
Days off unworked	NO	--	NO
Days off partially worked	NO	--	YES*
Leave usage full day	NO	--	NO

Leave usage partial day	NO	--	YES*
Holiday worked full day	NO	--	YES+
Days off worked full day	NO	--	YES+

*** Indicates that only those hours actually worked in the higher level position will count toward meeting the eligibility criteria and/or will be paid at the higher assignment rate of pay.**

+ Indicates that work for these days are paid at higher assignment rate if employee meets the 5 day initial qualification.

ON-CALL/CALL-IN/STAND-BY/AVAILABLE STATUS

Number 12.6

Effective Date: March 1, 1996

Subject: **ON-CALL/CALL-IN/STAND-BY/ AVAILABLE STATUS**

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It is the policy of the State of Vermont to provide additional compensation to employees who are: called-in to work; are on-call for work; or are on stand-by for work.

The purpose of this policy is to define on-call, call-in, stand-by, and available status, and to set forth the circumstances under which employees are compensated for such status.

DEFINITIONS

AVAILABLE - requiring an employee to leave word at home or with the employer where the employee may be reached during off-duty hours. The employee is not subject to any other restriction, and is neither "on-call" nor on "stand-by" duty and does not receive additional compensation. Employees are not restricted in their movements within any geographic radius of their workplace, nor do they suffer any other restrictions except leaving word where they may be reached.

ON-CALL - requiring an employee to remain, during off-duty hours, at a specific location designated by the employer in order to be able to report for duty immediately after being called.

STAND-BY - requiring an employee to be reachable during off-duty hours by phone or "beeper" within one (1) hour of being called, and reporting for duty where needed within one (1) hour of being reached or within normal commuting time between the employee's home of record and duty station, whichever is greater. The State Police have their own requirements as outlined in their contract.

CALL-IN - contacting an employee during off-duty hours and requiring the employee to immediately report to work, other than continuously into his or her regular shift. If the

employee has prior notice of the need to work it is not considered a call-in. Volunteering for overtime opportunities does not constitute call-in.

GENERAL GUIDELINES

The Call-in Pay and Stand-by Duty Articles of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) must be adhered to when implementing this policy.

Non-bargaining unit classified employees are not eligible for on-call or stand-by pay unless provided for in the Extension of Benefits (See Appendix D, Extension of Benefits, of this Policy Manual).

COMPENSATION

The criteria for eligibility and compensation are outlined below.

Call-in:

- All hours worked are paid at the overtime rates as required by the Overtime Article of the current contract. A minimum of four (4) hours is compensated and is paid even if the employee works less than four hours. Commuting time is not compensable.
- Employees are eligible for reimbursable mileage for their commute when called in to work other than continuously into their normally scheduled shift.
- Attendance at meetings or training sessions on a scheduled day off is compensable (with the four (4) hour minimum pay requirement) if the meeting is scheduled and attendance is mandatory and required by management. Employees are not eligible for mileage reimbursement.
- Employees are not eligible for the four (4) hour minimum pay if they work continuously into their normally scheduled shift.
- Call-in compensation is not paid for voluntary overtime work or to employees held over to work at the end of their shift or to work scheduled overtime.

On-Call:

- Employees receive regular overtime compensation for all hours worked in on-call status.
- Category 18 employees may be compensated for on-call status only with compensatory time off under the Overtime Article of the contract.
- Employees in Overtime Category 13 are not eligible for additional compensation for on-call status.

Stand-By:

- Employees are paid at one-fifth (1/5) the regular hourly rate for each hour of duty. Members of the State Police Bargaining Unit are paid at the rate of one-eighth (1/8) the regular hourly rate for each hour of duty.
- Employees eligible for cash overtime may request compensatory time off in lieu of cash. The request is granted at the discretion of the supervisor.
- Employees may not request both cash and compensatory time off for stand-by duty performed on the same workday.
- Additional compensatory time is granted for stand-by duty on a holiday.
- Compensation for stand-by duty that is paid in cash or compensatory time off shall not exceed $3,000 per fiscal year, per employee ($3,500 if in the Supervisory Unit). The Commissioner of Personnel may grant a complete or limited waiver of this limit, with a request from the appointing authority. Consistent with the provisions of the collective bargaining agreement, social workers in the Department of Social and Rehabilitative Services are not be subject to this limit.
- Employees in Overtime Category 18 are eligible for stand-by duty pay in cash, if they are otherwise qualified for stand-by duty pay; and they are required to carry a paging device or "beeper" during off-duty hours.
- Employees in Overtime Category 13 are not eligible for stand-by pay.

Available Status:

- No added compensation is paid to employees on available status.
- If the employee is called to active duty by a supervisor, the active duty is compensated accordingly and is considered as "overtime worked".
- Employees who are asked to be on available status are entitled to exclude themselves from overtime consideration subject to the limitations that are present in Section 2c of the Overtime Article of the contract.

COMPENSATION FOR TEMPORARY EMPLOYEES

Number 12.7

Effective Date: March 1, 1996
Revised: January 27, 2011

Subject: **COMPENSATION FOR TEMPORARY EMPLOYEES**

Applicable To: All temporary employees with the Executive Branch of the State of Vermont.

Issued By: Department of Human Resources

Approved By: Jeb Spaulding, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this policy is to establish the basic principles regarding the compensation for temporary employees. Temporary employees are employed for short periods of time in accordance with 3 VSA §331. They provide departments with sufficient staffing resources for seasonal or part-time work, emergencies, short-term special projects, work load fluctuations, and short-term absences of regular employees (See Number 5.1, Employment Categories).

HIRING RATE

The hiring rate for a temporary employee is the minimum rate which would apply to the position if it were a permanent position. There may be occasional exceptions to this minimum rate for temporary employees returning to State service. Before an offer of employment is made at a hiring rate above the pay grade minimum, the rate must be approved by the Commissioner of Department of Human Resources. Any unauthorized salary offer is not binding on the State and may not be approved.

If a temporary employee changes duty assignments during the course of employment, the hiring rate may be adjusted. Such salary adjustments must be approved in advance by the Commissioner of the Department of Human Resources. Salary adjustments are made in the first pay period following the Department of Human Resources approval. Retroactive adjustments will not be approved.

Retired State employees hired into temporary positions may be offered a hiring rate comparable to the end-of-probation rate applicable to the temporary position. Such offers may be made without prior approval from the Department of Human Resources.

OVERTIME

It is the general policy of the State to compensate temporary employees for overtime work by the same method that applies to permanent employees performing similar work in the same work unit, unless otherwise required by State or federal laws. Temporary employees are also eligible to receive shift differential if qualified. However, such temporary employees may not receive compensatory time off.

On request by an appointing authority, the Commissioner of the Department of Human Resources may approve an alternative overtime provision provided it complies with minimum provisions under the Federal Fair Labor Standards Act (FLSA).

OTHER BENEFITS

Temporary employees are not eligible for any other forms of compensation or benefits including, but not limited to the following:

- compensatory time off
- merit bonuses
- retirement contributions or service credit
- office allowance
- stand-by pay
- higher assignment pay
- weekend differential
- health, life, or dental insurance
- holiday pay or time off
- any other paid leave

Expenses for miles traveled and meals incurred as a result of working for the State may be reimbursed under Expense Reimbursement, however, in-state, mid-tour meals are not reimbursable.

The Commissioner of Human Resources may, with evidence of a bona fide business need, waive the limitation(s) of this Policy.

Approved:

/s/ 2/7/11

Jeb Spaulding Date
Secretary of Administration

COMPENSATION FOR EXEMPT EMPLOYEES

Number 12.8

Effective Date: March 1, 1996

Subject: COMPENSATION AND LEAVE BENEFITS FOR EXEMPT EMPLOYEES

Applicable To: All exempt employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The Department of Personnel has the primary responsibility for ensuring that exempt salary rates are established using a consistent procedure for review and approval. The Department of Personnel also establishes and maintains salary administration plans for particular groups of employees outside the classified service.

The purpose of this policy is to provide for a consistent and systematic method of ensuring that salary rates, salary administration plans, and leave benefit accrual plans for non-classified employees are implemented and periodically adjusted in a manner consistent with established principles of compensation, statutory limitations, and internal review procedures.

This policy does not create a vested interest for any exempt employee for salary or benefit provisions. No exempt employee shall be offered any paid leave benefit or salary, or be granted any expectation of such, unless it is within the parameters of this policy and has the appropriate approvals as defined in this policy.

GENERAL GUIDELINES:

This policy does not apply to temporary employees.

The Governor has the authority to establish salary levels for all agency and department heads, deputies, and principal assistants, within statutory limits. When recruiting for these positions it is imperative to refrain from any discussion of specific salary until the name of the prospective appointee has been approved by the Governor, through the Commissioner of Personnel and the Secretary of Administration. This protocol ensures that the salary offer meets statutory requirements and is consistent with compensation levels of comparable positions. A statutory salary range, if established, may be

disclosed to a prospective candidate, but a specific salary must not be offered until final approval is received from the Governor (or designee). Appointing authorities may elect to receive pre-approval for a hiring range permitting them to negotiate salary with a potential candidate within that range.

Questions regarding any aspect of this policy should be directed to the Department of Personnel, Compensation Unit, 802-828-3609.

ELECTED OFFICIALS

The annual salaries for elected officials are set by statute. The only salary adjustments available are those approved by the legislature. Salaries for these officers are usually outlined in the "Pay Act" (See Number 2.2, Pay Act).

DEPARTMENT HEADS

Appointing authorities may elect to receive pre-approval for a hiring range permitting them to negotiate salary with a potential candidate within that range. To receive authorizations, the appointing authority must send a request briefly describing the candidate's qualifications, salary history, and resume, to the Department of Personnel, Compensation Unit. An analysis for comparability within the State system and a recommendation is forwarded to the Secretary of Administration by the Commissioner of Personnel. If a request is approved by the Secretary of Administration, the appointing authority is authorized to negotiate with the particular candidate within that range.

The appointing authority recommends a specific salary offer by completing an *Exempt Salary Approval* form (See Attachment A) for review and approval by the Commissioner of Personnel, Secretary of Administration, Secretary of Civil and Military Affairs, and the Governor. The Governor will issue an appointment letter to the candidate which signifies approval of the specific salary offer.

Base salaries for agency secretaries, commissioners, and heads of certain other free-standing organizations are established in 32 VSA 1003(b). A hiring range for new appointees may be established within 30% of the current base salary for the position. Exceptions may be made for persons who are actively employed by the State at the time of the appointment.

The salary range maximum for positions listed in 32 VSA 1003(b) is 50% above the established base salary. Periodic salary adjustments granted to individuals under this subsection may not exceed the average of the total rate of adjustment available to classified employees, as announced by the Commissioner of Personnel. The Governor may grant a special salary increase or bonus subject to statutory limits. Special salary increases or bonuses granted to any individual shall not exceed the average of the total rate of adjustment available to classified employees, as announced by the Commissioner of Personnel.

The maximum for the salary range may be exceeded if the appointment is an existing permanent status employee whose salary already exceeds the maximum. In that instance the Governor, through the Department of Personnel, may approve a request from an appointing authority for that individual to retain his or her present salary.

DEPUTIES AND PRINCIPAL ASSISTANTS

Hiring salaries and salary increases for deputy department heads and principal assistants are subject to the approval of the Governor under 32 VSA 1020.

The Governor has the authority to establish hiring salaries and salary ranges for these positions. When recruiting for a deputy or principal assistant, a working salary range must first be authorized. No specific salary may be offered to the candidate until that salary has been approved. The procedures detailed in the General Guidelines section above shall be followed, and an *Exempt Salary Approval* form for all salary offers must be completed by the appointing authority and forwarded to the Department of Personnel, Compensation Unit, for approval by the Commissioner of Personnel, Secretary of Administration, Secretary of Civil and Military Affairs and the Governor.

OTHER EXEMPT EMPLOYEES

The following administrative salary approval process is used for all other exempt employees.

1. **Exempts Covered by a Unique Pay Plan or the Classified Service Pay Plan**:

   Unique Pay Plan: The compensation of an exempt employee who is covered by a unique pay plan (i.e., Exempt Attorney Pay Plan, Executive Director's Pay Plan, etc.) is governed by the terms and conditions of that pay plan. The Commissioner of Personnel (as the Governor's designee) has final authority to review and approve: all salary requests at the time of hire, annual adjustments, cost-of-living adjustments, end-of-probation raises, promotions, or merit increases for all employees covered by these plans.

   A completed *Exempt Salary Approval* form must accompany each salary adjustment request and be forwarded to the Department of Personnel, Compensation Unit. Documentation requirements are specified in the Pay Plan. The Department of Personnel, Compensation Unit is responsible for administering each plan and for submitting salary range revisions to the Secretary of Administration which are consistent with percentages periodically outlined in legislative appropriations.

   Classified Pay Plan: Some exempt positions may be covered by the Classified Pay Plan for salary administration purposes and the normal rules for that plan apply. All requests to hire above the minimum of the pay grade or to grant merit increases or non-recurring bonuses for such positions are submitted for approval

to the Department of Personnel, Compensation Unit. These requests are reviewed for compliance with policies for merit awards/bonuses (See Number 7.1 Employee Recognition - Merit Awards/Bonuses), and Hire-Into-Range requests (See Number 12.2, Hire-Into-Range Requests).

2. **Exempt Employees Not Covered by Any Pay Plan**: All requests to hire, or to grant annual increases, end-of-probation increases, or merit increases for exempt employees not covered by any pay plan must be forwarded in advance for review to the Department of Personnel, Compensation Unit. Final approval may only be granted by the Secretary of Administration as the Governor's designee.

   Salary offers cannot be extended to employees, or potential employees, before submission to the Department of Personnel for review and final approval by the Secretary of Administration.

MISCELLANEOUS

The following chart outlines who has delegated authority from the Governor for certain salary approvals (See Page 5).

DELEGATED AUTHORITY FOR SALARY APPROVAL

IF THE POSITION IS:	HIRING RATE APPROVAL BY:	ANNUAL ADJUSTMENT APPROVAL BY:	END OF PROBATION APPROVAL BY:	MERIT/ BONUS APPROVAL BY:
Covered by Unique Pay Plan	Commissioner of Personnel	Commissioner of Personnel	Commissioner of Personnel	Commissioner of Personnel
Covered by Classified Pay Plan	Commissioner of Personnel	Per Plan Rules	Per Plan Rules	Commissioner of Personnel
Not Covered by Any Pay Plan	Secretary of Administration	Per Guidelines issued for Exempt Salary Adjustments	Secretary of Administration	Secretary of Administration
Department Heads, Deputies or Principal Assistants	Governor	Governor	Governor	Governor

Section 12.80 - Exempt Pay Plans

The Personnel Department, Compensation Unit is responsible for administering all Exempt Pay Plans, for providing periodic analysis of the compensation history of plan participants, and for developing new Exempt Pay Plans for review and approval by the Governor.

SECTION 12.81 - EXEMPT LEAVE BENEFITS AND ACCRUALS

The Department of Personnel has been delegated responsibility for the administration of this policy: to standardize leave benefit allowances, to approve an employee's paid leave status, and to provide for consistent record-keeping. Any questions regarding this policy can be directed to the Department of Personnel, Compensation Unit.

Certain categories of exempt positions cannot be assigned to a leave benefit accrual plan. Leave benefits for exempt employees, which are outside the parameters of one of the established accrual plans, are not recognized by the Agency of Administration as binding unless approved in advance by the Commissioner of Personnel in writing.

Leave benefit provisions may be modified for specific individuals upon written request of the appointing authority and approval by the Department of Personnel.

CATEGORY OF EMPLOYMENT AND ASSIGNED BENEFIT ACCRUAL PLAN

Exempt (non-classified) employees whose positions are:

- assigned to the Classified Pay Plan are assigned to the **Classified** Benefit Accrual Plan.

- included in a specific exempt pay plan (except for Executive Directors) are assigned to the **Exempt** Benefit Accrual Plan.

- not assigned or included in any formal pay plan may be assigned to either the Classified or Exempt Benefit Accrual Plan if authorization has been given, in writing, by the Department of Personnel.

EXCLUSIONS

The following positions are **not** eligible to participate in any leave benefit or leave accrual plan:

- Agency and department heads
- Deputies
- Principal assistants
- Executive assistants
- Executive directors of small departments, boards, commissions or councils

Appropriate time off is granted at the discretion of the appointing authority and the administration of time off is maintained on an informal basis, and is not reflected on the employee's pay stub.

Exception: Executive directors and executive assistants who are on leave of absence from the classified service may be eligible to retain their sick leave benefit accruals and

transfer their balances at the time of their appointment if approved in advance under 3 VSA 220.

TRANSFER OF ACCRUED BALANCES

An exempt employee transferring to another position in the exempt service may have leave benefits transferred, if both positions are covered by one of the leave accrual plans.

An employee transferring from an exempt position to the classified service will have the balances transferred only to the extent that the accruals do not exceed what would have been accrued in the classified leave benefit accrual plan.

No payments will be made for any annual, sick, or personal leave accruals should the employee transfer to a position not assigned to a leave benefit plan.

Balances of compensatory time off may be transferred to a new position (exempt or classified) if approved by the new appointing authority. If not, then the balances are automatically paid in full, unless the appointing authority notifies the Department of Personnel at the time of the transfer to not pay. Compensatory balances for overtime payments required under FLSA may not be withheld.

PAYMENT OF LEAVE BALANCES AT TIME OF TERMINATION OF EMPLOYMENT

Accrued leave balances are paid at the time of termination from State service as follows:

- Annual leave (not to exceed 160 hours) is paid at the hourly rate then in effect, and at the discretion of the appointing authority. If the appointing authority elects not to pay for the leave, the Department of Personnel must be notified at the time of termination. Otherwise annual leave is paid automatically.
- Personal leave is **not** paid and is forfeited.
- Sick Leave is **not** paid and is forfeited.
- Compensatory time off, including holiday compensatory time, is paid at the hourly rate then in effect. Unless the compensatory time off is for overtime payments required under FLSA, the appointing authority may notify the Department of Personnel at the time of termination. Otherwise it is paid automatically.

Payments for leave or compensatory time are **not** made to any employee whose position is not officially assigned to a leave benefit accrual plan and whose leave benefits records are not maintained by the Department of Personnel. This exception may be waived with prior approval from the Commissioner of Personnel at the time of termination.

Under no circumstances can payments be made for unused time off for an agency/department head, principal assistant, deputy, executive assistant, or executive director.

NOTICE OR PAY IN LIEU OF NOTICE FOR ORIGINAL PROBATIONARY EMPLOYEES

Number 12.9

Effective Date: January 1, 2000
Subject: **NOTICE, OR PAY IN LIEU OF NOTICE FOR ORIGINAL PROBATIONARY EMPLOYEES**

Applicable To: All newly hired classified employees serving in an original probationary period, or extension(s), with the Executive Branch of the State of Vermont

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this policy is to provide appointing authorities with guidance about prior notice or pay in lieu of notice for employees who are being terminated from State service during their original probationary periods.

It is the policy of the State of Vermont that when an original probationary employee resigns, is dismissed, or is otherwise terminated from State service, appointing authorities may, at their sole discretion, exercise one of the following four options with regard to prior notice, or pay in lieu of notice.

An original probationary employee may be:

1. terminated immediately, without notice or pay in lieu of notice; or
2. granted up to two weeks prior notice, and permitted and/or required to work during the notice period; or
3. granted up to two weeks pay in lieu of notice
4. granted a combination of pay and notice, not to exceed two weeks in the aggregate.

GENERAL GUIDELINES:

In deciding which option to use in any particular situation, appointing authorities should consider:

- the reason for the probationer's termination. Notice, or pay in lieu of notice, should probably not be considered for probationers being terminated for misconduct.

- the organizational purpose served by the granting or denial of prior notice or pay in lieu of notice.
- employee perception and adverse impact on morale or operations.
- the proposed option's effect on the agency's ability to efficiently replace the probationer.
- probationers who voluntarily resign should not be considered for pay in lieu of notice.

Always ensure that the effective date of the employee's termination is the last day the employee actually works. Employees may not be kept on the payroll, without being required to work, as an alternative means of providing pay in lieu of notice. Pay in lieu of notice should always be paid after a probationer is terminated from employment.

Signed By Kathleen C. Hoyt, January 3, 2000

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Approved, Secretary of Administration

EMPLOYEE REQUEST FOR SALARY ADVANCE

NUMBER: 12.10

EFFECTIVE DATE: June 30, 2005

SUBJECT: **EMPLOYEE REQUEST FOR SALARY ADVANCE**

APPLICABLE TO: All classified employees, as well as exempt, appointed, temporary, and contractual, with the Executive Branch of the State of Vermont.

ISSUED BY: Department of Human Resources

APPROVED BY: Charles P. Smith, Secretary of Administration

I. PURPOSE AND POLICY STATEMENT

It is the policy of the State of Vermont to discourage salary and wage payments at times other than normal payroll check release dates. Understanding that there may be emergency circumstances that would justify a salary advance, this policy defines under what limited circumstances a salary advance may be made. Any salary advance will be recovered in full from the employee's next regular paycheck.

This policy only applies to Requests for Salary Advance forms received directly from the employee. It does not apply to "Special Check" requests submitted on behalf of the employee by their personnel officer to address errors or omissions on the part of the State that need to be corrected on behalf of the employee.

II. DEFINITION OF EMERGENCY

For purposes of this policy, an emergency is considered to be an event or circumstance that is unforeseen, and which could not be reasonably anticipated in the normal/routine daily life of the employee requesting the advance. Emergency needs are limited primarily to expenses associated with the death of an immediate family member, extraordinary medical costs that are not covered by insurance, or an event that would have irreparable adverse impact on the employee if no advance were approved. For example, a request for an advance to cover living expenses if the employee suffered a house fire or flood would qualify under this policy. However, a request for an advance to pay one's monthly rent, or to pay for upcoming vacation expenses, would not qualify under this policy.

III. PROCEDURES

General Guidelines

A Request for Salary Advance shall only be approved for an eligible employee for an unforeseeable emergency which would cause severe financial hardship. An employee may request an advance only for the unpaid time earned to date.

- The employee's request may not be for an amount that would exceed 70% of the salary due to the employee at the time funds are advanced.
- By submitting the Request for Salary Advance, the employee authorizes the Department of Human resources to deduct the amount of the advance in full from the employee's next regularly processed pay check.
- A Request for Salary Advance must have the approval of the employee's direct supervisor and Personnel Officer prior to submittal to the Payroll Manager of the Department of Human Resources (DHR) for final review.
- If a Request for Salary Advance is approved by the Payroll Manager, it will then be forwarded to the Treasurer's Office to process the payment. The Treasurer's Office will generate the check within two business days of receipt of the request.
- Salary advances will be in the form of a check; they cannot be direct deposited because they are not generated during a regular payroll run.
- DHR cannot issue a warrant on the State Treasurer in the current calendar year and record a payment in another. Any request for salary advance received between the date of the last salary payment in a calendar year and the beginning of the next calendar year will not be honored.

The purpose of the Request for Salary Advance form (Attachment A) is to ensure that an advance is properly requested and reviewed, as well as to ensure the advance is repaid in full on the payday following approval of the request.

A. Employee Responsibilities

1. The employee must make a request for advance only when it is necessary to alleviate an unforeseeable emergency as outlined above.
2. The employee must submit a completed, signed Request for Salary Advance form to his or her direct supervisor. A signed copy of the employee's current time report and any other documentation supporting the reason why an advance is needed must be attached to the request.

B. Employing Agency/Department Responsibilities – Direct Supervisor

1. The employee's supervisor must immediately review and make an initial determination as to the validity and need for the request. Supervisors must reject any claims which do not truly meet the definition of emergency as outlined above.
2. The supervisor must sign and date the request.

3. If the request is approved by the supervisor, he or she must immediately forward it to the employee's Personnel Officer for further consideration.
4. If the request is denied by the supervisor, he or she must immediately return it to the employee, indicating the reason for denial.

C. Employing Agency/Department Responsibilities – Personnel Officer

1. The Personnel Officer must immediately review an employee's Request for Salary Advance and all attachments for accuracy and completeness.
2. The Personnel Officer must make a determination as to the validity and need for the request. Personnel Officers must reject any claims which do not meet the definition of emergency.
3. The Personnel Officer must sign and date the request.
4. If the request is approved by the Personnel Officer, he or she must immediately forward the request to the DHR Payroll Division, with any supporting documentation attached.
5. If the request is denied by the Personnel Officer, he or she must immediately return it to the employee, indicating the reason for denial.

D. Department of Human Resources Responsibilities – Payroll Division

1. The Payroll Division will immediately review the Request for Salary Advance and, based on the employee's payroll status, determine if the employee is eligible to receive an advance against his or her earnings and determine the maximum amount that can be made under this policy.
2. If the request is approved, the Payroll Division will immediately forward the completed Request for Salary Advance to the Treasurer's Office. The Treasurer's Office will generate the check within two business days upon receipt of the completed and approved request.
3. The Payroll Division will contact the Personnel Officer to inform him or her of the outcome of the request.
4. If the employee's request is approved, the check will be held at the Treasurer's Office for pick-up if so indicated on the Request for Salary Advance form. Otherwise, the check will be mailed to the employee at the address indicated on the form.
5. If the request is denied, the Payroll Division will immediately return one copy of it to the employee and one to the Personnel Officer, indicating the reason for denial.

Link to ATTACHMENT A - REQUEST FOR SALARY ADVANCE FORM

DIRECT DEPOSIT

Number 12.11

Effective Date: July 1, 2009

Subject: Direct Deposit

Applicable To: All classified employees, as well as exempt, appointed, and temporary, and contractual, within the Executive Branch of the State of Vermont. In addition, applies to all employees paid through the State of Vermont Payroll System, including all employees and elected or appointed officials of the Judicial and Legislative Branches.

Issued By: Department of Human Resources

Approved By: Neale F. Lunderville, Secretary of Administration

PURPOSE:

The purpose of this policy is to provide guidelines and establish procedures for the Direct Deposit program and for application for a waiver of the requirement that all employees of the State of Vermont receive payment of wages by direct deposit.

POLICY STATEMENT:

Pursuant to Section 101 of Act #4 of the Legislative Acts of 2009, all employees of the State of Vermont are required to receive their pay via Direct Deposit. Only those employees who have submitted a *Request for Waiver of Direct Deposit* form that has been approved by the Commissioner of the Department of Finance and Management, or the appropriate leadership of the other employing branches of government, will be allowed to receive payment for wages by check.

DEFINITIONS:

Direct Deposit: The payment of wages via electronic transfer from the State of Vermont to a financial institution designated by the employee.

Employee: For this Policy only, the term employee extends to every individual providing services who is compensated through the State of Vermont Payroll System.

PROCEDURE

1. All employees must complete a *State of Vermont Employee Request for Direct Deposit* form at the time of hire, or at such other time as directed by an appointing authority.

2. If an employee declines to complete the *State of Vermont Employee Request for Direct Deposit form* at the time of hire, or such other time as requested by an appointing authority, he or she must complete a *Request for Waiver of Direct Deposit* form. The Request for Waiver of Direct Deposit form and all necessary supporting documentation must be submitted to the Department of Finance and Management within 30 days of hire, or the date when directed to request Direct Deposit, as applicable.

3. For employees of the executive branch of government, the Commissioner of Finance and Management will act on all completed *Request for Waiver of Direct Deposit* forms within fifteen days of receipt. The legislative and judicial branches will process request forms in accordance with their own policies. A Request for Waiver of Direct Deposit application to the Commissioner of Finance and Management is complete only when accompanied by the required documentation. Waivers will be granted for the following reasons:

   a. **Written rejection action from banking facility.**
   The employee must submit written confirmation from at least two banks and/or credit unions declining to open either a checking or a savings account. The bank confirmation must be dated within 30 days of the request for waiver.

   b. **Documented religious aversion to technology and its usage.**
   The employee must submit written confirmation that he or she has a bona fide religious belief and that compliance with the Direct Deposit Policy is contrary to his or her religious faith. The documentation must include a copy of any writings that indicate an objection to the use of technology that would prohibit compliance with the Policy. If the claim of conflict is based upon the laws or tenets of a religious organization, the documentation must include information that would allow a representative of the State of Vermont to contact a representative of the religious organization in order to verify the validity and sincerity of the employee's religious belief.

4. The Department of Finance and Management will, to the extent permitted by law, treat the application for waiver and associated documents as confidential, personal documents as provided by 1 V.S.A. § 317(c)(7). The response to the individual seeking a waiver of Direct Deposit will state only that the waiver is granted or denied. The decision of the Commissioner shall be final.

5. An employee may apply for a waiver while employed and already receiving pay by Direct Deposit if a basis for a waiver, as identified in Paragraph 3 above, arises. If an employee's account is closed, he or she must provide a new *State of Vermont Employee Request for Direct Deposit* form within 30 calendar days, or submit a properly documented *Request for Waiver of Direct Deposit* form within the same period.

6. A personal aversion to dealing with banks, mistrust of financial institutions, or concerns about the security of the Payroll system and/or communications between

Payroll and financial institutions are examples of reasons that will not be accepted as the valid basis for a waiver of this requirement.

7. The *State of Vermont Employee Request for Direct Deposit* form and the *Request for Waiver of Direct Deposit* form may be obtained from departmental HR staff or on line at: http://finance.vermont.gov/forms#payroll.

/s/	6/30/09
Neale F. Lunderville, Secretary Agency of Administration	Date

TAX COMPLIANCE

Number 12.12
Effective Date: February 23, 2010
Subject: Tax Compliance

Applicable To: All applicants for hire, rehire, or individuals being restored into a classified, exempt, appointed, temporary, or contractual position with the Executive Branch of the State of Vermont. In addition, this policy applies to all applicants for employment in the Executive Branch who would be paid through the State of Vermont Payroll System, other than those 1) paid as a county employee, or 2) who return to any position in State government as a result of a placement right or reduction in force (RIF) recall right. This policy does not apply to current employees subject to or applying for a transfer, demotion, or promotion within State government.

Issued By: Department of Human Resources
Approved By: Neale F. Lunderville, Secretary of Administration

PURPOSE:

The purpose of this policy is to provide guidelines and establish procedures for Executive Branch agencies and departments of the State of Vermont for the implementation of the provisions of 32 V.S.A. Section 3113(i).

POLICY STATEMENT:

Pursuant to 32 V.S.A. Section 3113(i), no agency of the state shall hire any person unless s/he first signs a written declaration under the pains and penalties of perjury that s/he is in good standing with respect to all Vermont taxes due as of the date such declaration is made.

DEFINITIONS:

Employee: For this Policy only, the term "employee" extends to every individual providing services who is compensated through the State of Vermont Payroll System, as noted above.

Hire: to engage the services of a person for a fee (does not apply in the instance of a transfer, demotion, or promotion for a current employee, a RIF rehire, or other mandatory placement process for a former employee).

Good Standing: Per 32 V.S.A. Section 3113(g), a person is in "good standing" with respect to any and all Vermont taxes payable if:

(1) no taxes are due and payable and all returns have been filed; or
(2) the liability for any taxes due and payable is on appeal; or
(3) the person is in compliance with a payment plan approved by the Tax Commissioner.

PROCEDURE

1. All persons offered employment with the State of Vermont must complete a *State Employment Declaration Form – Tax Compliance* prior to beginning work for the State of Vermont. Any offer of employment is conditional pending review of the applicant's

standing with the Tax Department. Completed declaration forms are to be submitted to the agency/department Human Resources Administrator.

2. If an applicant for state employment declines to complete the *State Employment Declaration Form – Tax Compliance* any offer of employment will be rescinded and is considered null and void. If already employed, the person shall be separated immediately without notice or pay in lieu of notice.

3. Upon receipt of a completed *State Employment Declaration Form – Tax Compliance* from an applicant for State employment, the agency/department HR Administrator will contact the Tax Department to verify that the applicant is in good standing.

4. The Tax Department will conduct a review of the applicant's tax records and respond to the hiring department's HR Administrator within 5 business days as to the applicant's standing with the Tax Department.

5. If the applicant is found not to be in good standing with the Tax Department any offer of employment will be rescinded and is considered null and void. If already conditionally employed pending verification of tax compliance, the person shall be separated immediately without notice or pay in lieu of notice.

6. If it is believed that an applicant for employment falsified the *State Employment Declaration Form – Tax Compliance,* the information will be forwarded to the local State's Attorney's Office or to the Attorney General's Office for review. Criminal charges may be filed against an applicant for falsifying the *State Employment Declaration Form – Tax Compliance.*

7. No applicant for state employment should begin work until an applicant's good standing is verified by the Tax Department.

The *State Employment Declaration Form – Tax Compliance* form may be obtained from department HR staff.

/s/ 2/5/10

Neale F. Lunderville, Secretary
Agency of Administration

Date

Section 13

GROUP MEDICAL BENEFIT PLANS

Number 13.0

Effective Date: March 1, 1996
Subject: **GROUP MEDICAL BENEFIT PLANS**
Revision Date: October 1, 1999

Applicable To: All classified employees, as well as exempt and appointed employees, with the Executive Branch of the State of Vermont, as well as some former employees and members of other groups as dictated by law, regulation or contractual agreement with the VSEA.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this policy is to describe procedures for the administration of the State employees' medical benefits program. The State of Vermont offers group medical coverage to its employees and all eligible dependents through the State Employee Medical Benefit Plan (also known as the Choice Plus Plan), The Vermont Health Plan (TVHP), and MVP Health Plan (MVP). The last two plans are health maintenance organizations. Some current and former employees of the Department of Forests and Parks are covered by Blue Cross/Blue Shield, a limited plan which is still in effect [see 3 VSA §631(b)]. The State currently pays 80% of the premium cost of each plan and the employee pays the remaining 20%.

ELIGIBILITY

Newly hired State employees who are expected to work at least 1040 hours per year are eligible to enroll themselves and their eligible dependents in the medical plan during the first sixty (60) calendar days of employment. Enrolled employees can enroll new dependents within sixty (60) days of the event making the new dependent eligible. Bona fide domestic partners and their eligible dependents are considered to be eligible dependents of State employees.

Temporary employees and contractors **are not eligible** for the group medical benefit plan.

ENROLLMENT

There are three optional health benefit plans to choose from:

1. The **Choice Plus Plan** is a self-funded fee-for-service indemnity plan that provides employees and their dependents with medical coverage if they become sick or injured. The plan is designed to allow freedom of choice among health care providers. The plan covers hospitalization at 100%. Other services are subject to annual deductibles and a 20% co-payment. Choice Plus members are also automatically eligible for a managed mental health care program and a mail order prescription drug plan.
2. The **Vermont Health Plan and MVP Health Plan** are non-profit, federally qualified Health Maintenance Organizations (HMOs) which provide full comprehensive health care benefits to employees and dependents. The HMOs are managed care plans and, as such, requires employees to choose a primary care provider from among HMO network providers. HMO plan members pay no annual deductibles and minimal co-payments.

To enroll, an employee must obtain a *State of Vermont Medical Plans Request to Enroll, Add, Remove, or Cancel Insurance Coverage* form from the agency or department personnel officer, complete the form and return it to the personnel officer within the time frames provided. The personnel officer will forward the form to the Payroll Department for processing.

Employees may enroll in the medical insurance program only during the first sixty (60) days of employment. If an employee fails to enroll within that period, (s)he must wait for the annual open enrollment period.

Once enrolled, coverage will begin on day thirty-one (31) of the employee's employment, or the date (s)he enrolls, from day thirty-two (32) through day sixty (60), whichever comes first. Coverage for eligible dependents begins when the employee's coverage begins. If the employee does not enroll within sixty (60) days of employment, (s)he must wait until the next annual open enrollment period to enroll.

An open enrollment period is held each year, usually during the month of November, to allow employees to choose among plans or to add eligible dependents. Enrollment is not allowed outside the open enrollment period, except in the case of marriage, commencement of a qualified domestic partnership, childbirth or adoption, divorce, death of a spouse, or a spouse's job termination. An employee covered by the HMO plans may be allowed to enroll in Choice Plus outside the open enrollment period should the employee permanently move to a residence outside the HMO's service area. Specific terms of the contract or plan documents will apply first if different than stated in this contract.

Signed By Kathleen C. Hoyt, October 25, 1999

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Approved, Secretary of Administration

LIFE INSURANCE/ACCIDENTAL DEATH AND DISMEMBERMENT PLAN

Number 13.1

Effective Date: March 1, 1996

Subject: LIFE INSURANCE/ACCIDENTAL DEATH AND DISMEMBERMENT PLAN

Applicable To: All classified employees, as well as exempt and appointed, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this policy is to describe procedures for the administration of the State employees' life insurance program. The State of Vermont offers an optional group term life insurance plan to its employees. The State will pay 75% of the premium cost of the insurance and the employee will pay the remaining 25%.

ELIGIBILITY

Newly hired State employees who work at least fifteen (15) hours weekly, and who have completed thirty (30) days of continuous service are eligible to enroll in the life insurance plan during the first sixty (60) calendar days of employment.

Temporary and contractual employees ***are not eligible*** for the group life insurance plan. Dependents of employees are also not eligible to participate in the plan.

ENROLLMENT

To enroll, an employee must obtain a *Request for Payroll Deduction* form from the agency/department personnel officer, complete and return it to the personnel officer within the time frames provided. The personnel officer will forward the form to the Payroll Department for processing. Employees may enroll in the life insurance plan only during the first sixty (60) days of employment, or thereafter must provide evidence of insurability.

Once enrolled, coverage will begin on day thirty-one (31) of the employee's employment, or the date the employee enrolls, from day thirty-two (32) through day sixty (60), whichever comes first. Coverage will begin on the day the employee enrolls if this takes place between the thirty-first (31) and sixtieth (60) day of employment. Employees

who do not enroll during the first sixty (60) days of employment must complete a *Health Statement* (which can be obtained from the Payroll Office) in addition to the *Request for Payroll Deduction* form. Coverage will be approved or denied by the insurance company based on its review of the medical evidence.

COVERAGE

The amount of life insurance of an insured employee whose annual salary is $10,000 or less will be $20,000.

The amount of life insurance for any employee whose annual salary is over $10,000 will be an amount equal to two (2) times the employee's current annual base salary (calculated to the nearest $100 below the employee's annual base salary times two). The life insurance benefit will automatically change as the employee's earnings change.

The first $50,000 of life insurance is a tax-exempt benefit, under IRS rules. Life insurance amounts over $50,000 are required to be reported as taxable income by the IRS. The taxable effect to employees is minimal as premiums are low.. Amounts are reported on the employee's year-end W-2 forms.

Under the terms and conditions of the life insurance plan, in certain instances in which the employee's accidental death results from bodily injury, accidental death and dismemberment benefits will be paid to the employee's beneficiary in an amount equal to the amount of life insurance in force. This benefit is ***in addition to*** the life insurance benefit. Some benefits may be payable to the employee for loss of limb or eyesight.

The amount of life insurance for any employee covered by the Agreements between the State of Vermont and the Vermont State Employees' Association, Inc., who retires in accordance with the terms of 3 VSA 631 (a)(2), shall be reduced and limited to $5,000 on the date of retirement or as otherwise determined by the Legislature (if vested on the date of retirement).

DENTAL ASSISTANCE PLAN

Number 13.2

Effective Date: March 1, 1996

Subject: **DENTAL ASSISTANCE PLAN**

Applicable To: All classified employees, as well as exempt and appointed, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this policy is to describe procedures for the administration of the employee dental assistance plan. The State of Vermont provides group dental benefits to its employees and their qualified dependents. The State currently pays 100% of the premium.

ELIGIBILITY

Newly hired State employees who work at least fifteen (15) hours per week are eligible to enroll themselves and their eligible dependents in the group dental assistance plan upon completion of six (6) months of State employment. Newly acquired dependents of an employee are covered under the employee's membership on the day they become eligible family members.

Temporary and contractual employees are not eligible for group dental benefits.

ENROLLMENT

Employees are automatically enrolled in the plan. The State notifies the Claims Administrator of the employee's effective date of coverage, and a plan booklet is provided to the employee by the Claims Administrator at that time.

Coverage begins on the day the employee completes six (6) months of service. An employee must be in an active work status for coverage to begin.

FLEXIBLE SPENDING ACCOUNT PLAN

Number 13.3

Effective Date: March 1, 1996

Subject: **FLEXIBLE SPENDING ACCOUNT PLAN**

Applicable To: All classified employees, as well as exempt and appointed, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE

The purpose of this policy is to describe the flexible spending account plan available to State employees.

GENERAL INFORMATION

The State of Vermont's offers to classified, exempt and appointed employees a flexible spending account plan known as the TaxSaver Option Plan. The TaxSaver Option Plan (TOP) is a flexible spending account which gives employees the opportunity to pay for medical and/or dependent care expenses on a **PRE-TAX** basis (before taxes are deducted). This plan is governed by Internal Revenue Service (IRS) regulations, Sections 125 and 129.

Contributions to the TaxSaver Option Plan reduce an employee's Social Security benefit by an equal amount.

Through the TaxSaver Option Plan, employees may set aside pre-tax dollars from their pay to cover qualifying medical and/or dependent care expenses. An employee may set up either a medical or a dependent care expense account, or both.

Contributions to the plan for the entire plan year must be specified in advance. The amount of the contribution cannot be changed unless there is a change in family status (as in the case of childbirth, adoption, marriage, death of a spouse, etc.).

The IRS has established strict guidelines for monies that are not used by the end of a plan year. FUNDS THAT ARE NOT USED TO REIMBURSE EXPENSES INCURRED DURING THE PLAN YEAR MUST BE FORFEITED. (Any forfeited funds will be used to

offset the plan's administrative costs.) An employee has ninety (90) days after the plan year ends to submit eligible expenses incurred during the plan year.

Temporary and contractual employees **are not eligible** for the flexible spending account plan.

MEDICAL EXPENSE ACCOUNT

Employees may set aside PRE-TAX dollars to pay for medical, dental, vision care or other eligible expenses which are not covered by their health care plan. Qualified benefits are listed under IRS Code Section 125. When eligible expenses are incurred, employees must file a claim to be reimbursed from their Medical Expense Account. The maximum amount that can be set aside in this account is $1,500 each calendar year.

Employees may receive advance reimbursement from the Medical Expense Account. This means that the full amount of the annual deposit is available immediately at the beginning of the plan year for reimbursement of eligible expenses.

DEPENDENT CARE EXPENSE ACCOUNT

Contributions from the employee to the Dependent Care Expense Account are not subject to federal or State income taxes or social security tax. The maximum amount that can be set aside in this account is $5,000 each calendar year for single employees. Married employees are limited to the $5,000 maximum as well. If both the employee and spouse are enrolled in a Dependent Care Expense Account, whether it be the TOP plan or another employer's plan, their combined contributions cannot exceed $5,000.

When eligible Dependent Care expenses are incurred and an employee is enrolled in the TOP to cover these expenses, a claim may be filed and the employee will be reimbursed from the account. In the Dependent Care Expense Account, however, (unlike the Medical Expense Account rules), funds are available **only as they are deposited each payroll period** during the plan year.

ENROLLMENT

To participate in the TaxSaver Option Plan, employees MUST COMPLETE AND FILE AN ENROLLMENT FORM EACH PLAN YEAR, indicating the annual contribution for each account. The plan year begins on January 1 and ends on December 31 each year. New employees have sixty (60) days from the date of hire to enroll in TOP. Current employees may enroll during the annual open enrollment period during the month of November. Enrollment forms are available from agency/department personnel officer, or from the Employee Benefits Division of the Department of Personnel.

The employee's annual contribution will be divided by the number of pay periods in the year to arrive at the amount to be deducted from the employee's salary each pay period.

CHILD CARE

Number 13.4

Effective Date: March 1, 1996

Subject: **CHILD CARE**

Applicable To: All classified employees who are members of the non-management, supervisory, corrections or State Police bargaining units, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

GENERAL INFORMATION

As provided for in the Child Care Article of the current Agreements Between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA), a labor/ management committee exists to monitor existing child care programs, and to investigate other options for providing child care services to all State employees, regardless of their bargaining unit status. Efforts are concentrated to develop child care programs in geographic locations that are not currently served by existing programs. The Committee makes recommendations to the Secretary of Administration for the expenditure of funds allocated to it during the life of the contract.

CHILD CARE RESOURCE AND REFERRAL SERVICE

The Child Care Committee supports grant funding for the Child Care Resource and Referral Service that is available at no cost to State employees who are parents of infants and children through age twelve (12). This service provides assistance in locating suitable child care by supplying information and referrals to child care providers. A network of resource and referral agencies is located throughout the State. Each agency specializes in the unique services of its geographic area, so employees may receive assistance regardless of where they live.

Brochures describing this service can be obtained through the agency/department personnel officers, or through the Department of Personnel.

RETIREMENT PLAN

Number 13.5

Effective Date: March 1, 1996
Revised: May 15, 2002

Subject: **RETIREMENT PLAN**

Applicable To: All classified employees, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

MEMBERSHIP

Membership in the Vermont State Employees' Retirement System is a condition of employment for any permanent, permanent part-time, exempt*, or elected officials who are State employees. Legislators and temporary employees are not eligible to be members of the system. A six (6) member board of trustees administers the plan. Three (3) of the members are elected by the membership of the Vermont State Employees' Association, Inc., and the other three (3) members are ex-officio (State Treasurer, Governor's Representative, and the Commissioner of Personnel). This plan is a defined benefit plan, which guarantees a specified benefit to an employee at retirement based on:

- AFC - the average of the three (3) highest consecutive years of compensation (eligible earnings);
- total years of service credit in the system; and
- age at retirement.

CONTRIBUTIONS

The contribution rate of the employee is as follows:

- 6.28% for Group C Members (State Police Hired after July, 1972).
- 5.10% for Group D Members (Judges, except Probate Judges hired after July 1, 1987).

- 3.35% for Group F Members (General Employees and Probate Judges hired after July 1, 1987).

The employer contribution is actuarially determined to provide the funding of plan benefits, in addition to the investment income earnings of the plan.

BENEFITS

Retirement benefits are not automatic; employees must apply for them. Sometime during the year in which employees plans to retire, they should contact the Retirement Division for an estimate and application materials.

- Group C: Mandatory retirement age 55. Early retirement age 50 with 20 years of service credit. Maximum benefit equal to 50% of AFC.

- Group D: Normal retirement age 62 with 5 years of service credit. Early retirement age 55 with 5 years of service credit. After 12 years of service in a capacity of a judge as defined above, the maximum benefit is equal to 100% of the salary at retirement with 30 years of service credit.

- Group F: Normal retirement age 62, or 30 years of credit regardless of age. Early retirement age 55 with 5 years of service credit. Maximum benefit equal to 50% of AFC.

Reduced or early retirement benefits are available if an employee is not normal retirement age. The early retirement benefit is based on the pro-ration of years in the system and the age at which retirement occurs. The retirement division calculates the early retirement factor based on the employee's individual record.

Disability Benefits - are available to an employee should the employee become permanently disabled or become disabled as a result of a job-related injury. Employees are encouraged to contact the State Retirement Division to obtain information regarding the benefit as well as the estimated pension payable should the disability be approved. Certain procedures and medical documentation are necessary in applying for this benefit. Inquiries are confidential.

Death-in-Service Benefits - are available if an active employee becomes deceased and qualifies for early retirement (age 55 with 5 years), or becomes deceased after 20 years of service credit, regardless of age. Job-related death benefits are also available. The benefit is calculated as though the employee retired on date of death (whether early or normal) and chose a survivorship benefit for his/her dependent beneficiary.

Termination of Employment - in lieu of a retirement benefit, if a member at termination is not vested, a refund of the member's contributions plus interest is payable. Refund of an account automatically nullifies a retirement benefit which would become payable

Retirement Options - when an employee begins planning for retirement, the Retirement Division will provide the appropriate estimate of benefits. Several benefit payments are available from the maximum benefit payable for the life of the employee, to several reduced benefit options which provide for the return of the member's contributions, or provide a continued (survivor) benefit for the lifetime of the beneficiary.

Health Insurance Benefits - may continue from active employment into retirement with the premium withheld from the monthly pension check.

Life Insurance - is provided in the form of a paid-up $5,000 policy to an employee who leaves employment for immediate retirement and is covered by the life insurance at the time of the termination from State government. Theses employees must have completed 20 years of creditable service as outlined in 3 VSA §631(a)(2).

GENERAL INFORMATION

Taxes are withheld from the pension check as authorized by the employee. Direct or electronic deposits of the monthly check is available. Vermont State Employees' Credit Union withholdings may also be authorized from the retirement check.

Payment of the pension is monthly, payable on the last business day of each month for that month. Retirement can occur on the first of any month only. Employees are encouraged to work through the end of the month prior to the retirement date. For example, if you retire January 1, termination must occur no later than December 31.

Previous Vermont employment, certain military credit, employment in another state, public or private teacher service, and transfers between the Teacher's Retirement and Municipal Employees' Retirement System are a number of the ways in which a member may purchase or obtain credit. Certain military credit may be granted.

Employees are encouraged to contact the Retirement Division, 133 State Street, Montpelier, VT 05633-6200, telephone 802-828-2305, for specific information pertaining to their account or for personal planning. All benefits are subject to the interpretation and provisions of 3 VSA Chapter 16.

* DEFINED CONTRIBUTION PLAN

Exempt employees are given an irrevocable option to participate in a defined contribution plan rather than the defined benefit plan described above. Information about the defined contribution plan is distributed by the Retirement Division of the State Treasurer’s office.

The defined contribution plan is a portable, self-managed plan that gives the employee control over investments. Employees in this plan are vested after 1 year and 11months. The employee’s bi-weekly contribution rate is 2.85%.

DEFERRED COMPENSATION

Number 13.6

Effective Date: March 1, 1996

Subject: **DEFERRED COMPENSATION**

Applicable To: All classified employees, as well as exempt and appointed, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

GENERAL INFORMATION

State employees are allowed, under tax law, to participate in a Deferred Compensation Plan maintained by State government. Many states, counties, and municipalities have adopted this valuable method for employees to enhance their current tax status helping them save for retirement. The State of Vermont's group annuity contract is issued by Aetna Life Insurance and Annuity Company.

Employees can postpone receipt of a portion of their current income through the Deferred Compensation Plan available through the State of Vermont. Employees select accounts from the plan in which their deferred compensation contributions are invested. Their total investment grows, federal and state income tax free, until they reach age 59 1/2 or retire and start drawing from the account. When the employee starts drawing on the account, the money will become taxable as ordinary income. Both the employer and the employee pay Social Security taxes on the money as it goes into the deferred compensation plan.

Payment of taxes is deferred on both the amounts contributed and the earnings from those contributions. Therefore, it is possible for employees to accumulate a larger sum as if they had invested after-tax dollars. When employees do receive the value of their deferred compensation (probably after retirement), it is possible that they will be in a lower tax bracket.

ENROLLMENT

In order to participate in the State's Deferred Compensation Plan, employees must agree in writing to set aside a certain amount from each paycheck. Employees should contact the managers of the State's Deferred Compensation Plan, Systematized Benefits Administrators, Inc. (SBA) at 1-800-642-3800. A representative will set up individual appointments with employees and describe the plan to them. Employees will receive a copy of the Deferred Compensation Agreement, which describes how their

benefits are determined, when they will receive payments, and the manner in which payments will be made to them.

To enroll in the plan, employees must complete a *Payroll Deduction* form, and a *Participation Agreement* which state the dollar amount to be deducted each pay period. These forms must be submitted to the Payroll Department for processing. Employees will become participants in the plan in the month following submission of their forms. A new *Payroll Deduction* form must be completed any time employees want to change the amount of or stop their deductions.

ACCUMULATION AND DISTRIBUTION PERIODS

Two periods of time are important under any annuity contract. During the accumulation period, contributions are made, deposited, and invested in options selected by employees to provide future retirement income. The accumulation period ends when employees have a change in status that results in a benefit payment (for reasons of retirement, for example). At this point, the amounts accumulated for employees can be used to provide income payments. During this annuity period, employees receive periodic retirement benefit payments. Employees can choose from several different payment options.

MAKING CHANGES

At any time, employees may increase or decrease their contributions to the plan in while dollar amounts, within the legal limits. They may also stop, or restart their deferrals. Changes must be made on the *Payroll Deduction* form which can be obtained from the agency/department personnel officer.

RECEIVING BENEFITS

Benefit distributions are made when one of the following events occurs:

- an employee retires (normal, early or late)
- an employee dies (payment is made to the beneficiary)
- employment with the State of Vermont ends
- an employee experiences an unforeseeable emergency
- an employee is required to take an IRS minimum distribution (by April 1 of the year following the calendar year in which the employee turns 70 or retires, whichever is later)

If employees terminate employment before they are eligible to retire, the value of their deferred compensation account may be paid to them as specified in their *Participant Agreement*. Income taxes will become due for the tax year in which they receive the money.

If employees do not want their account distributed to them when employment ends, they may irrevocably elect to have it retained by the State of Vermont until a future date (not later than their normal retirement age). Retained funds will continue to participate in investment performance on a tax-favored basis.

WITHDRAWING FUNDS

The Internal Revenue Service does not allow employees to withdraw funds from their deferred compensation account. The single exception to this rule is the case of an unforeseeable emergency or hardship.

An unforeseeable emergency is defined as "a severe financial hardship resulting from a sudden and unexpected illness or accident to the participant or of a dependent, loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the participant's control." The definition of hardship does not include expenses that could have been predicted, such as related to the purchase of a home or educational programs (tuition, etc.).

If employees suffer an unforeseeable emergency, they must request an application from the State Retirement Office, 133 State Street, Montpelier, VT 05633, for approval of a withdrawal from their account. Proper documentation of the emergency must be submitted with their application.

For more information on the State's Deferred Compensation Plan, contact the State of Vermont Retirement Office at 802-828-2305, or the Systematized Benefits Administrators, Inc. representative at 1-800-642-3800.

SOCIAL SECURITY (FICA)

Number 13.7

Effective Date: March 1, 1996

Subject: **SOCIAL SECURITY (FICA)**

Applicable To: All classified employees, as well as exempt, appointed, and temporary, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

GENERAL INFORMATION

On August 14, 1935, Congress approved the Social Security Act, chapter 531, 49 Stat. 620. This act provides to employees and to the dependents and survivors of those employees the basic protection accorded to others by the old age and survivors insurance system.

Employees of the State of Vermont whose services are covered by 3 VSA 573, are required to pay for periods of such coverage into the contribution fund established by 3 VSA 576.

Employees and employers are required to make equal payments to the Federal Government to enable employees to collect monthly Social Security benefits when they retire. All employees of the State of Vermont are required to have Federal Insurance Contribution Act (FICA) taxes withheld from their gross taxable salary, up to the maximum taxable amount.

The State and employees are required to make equal payments to the federal government.

Pre-tax deductions, such as health insurance premiums and flexible spending accounts, decrease the amount of FICA tax being paid and will have an impact on the amount the employee receives from Social Security when the employee retires.

For more information, employees can contact:

Social Security Administration
58 Pearl Street
Burlington, VT 05401
802-951-6753

800-772-1213
800-325-0778 (TDD)

or

Social Security Administration
33 School Street
Montpelier, VT 05602
802-223-3476
800-772-1313
800-325-0778 (TDD)

UNEMPLOYMENT COMPENSATION

Number 13.8

Effective Date: March 1, 1996

Subject: **UNEMPLOYMENT COMPENSATION**

Applicable To: All classified employees, as well as exempt, appointed and temporary, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

GENERAL INFORMATION

Elected officials are not eligible for Unemployment Compensation.

In 1935, the U.S. Congress passed the unemployment insurance provisions of the Social Security Act which established a federal-state system of paying monetary benefits to eligible unemployed persons. Vermont's Unemployment Compensation Law was enacted in 1936. The Department of Employment and Training administers the unemployment compensation program in Vermont.

The primary objective of unemployment insurance is to alleviate the hardship of lost wages for workers who become involuntarily unemployed, and who are able and willing to accept suitable jobs when available.

Under Vermont's law, taxes on employers' payrolls finance unemployment insurance. The employees make no contributions themselves, and this tax cannot be withheld from an employee's paycheck. The State of Vermont is a covered employer, however, in lieu of paying taxes on a quarterly basis, the State pays its proportionate share of the unemployment compensation benefits received by its former employees.

When a former State of Vermont employee files for Unemployment Compensation benefits, the State is notified and provided an opportunity to protest the employee's receipt of benefits based on the reason for separation if the State was the last employer.

Employees who have lost their jobs should report to their Department of Employment and Training district office as soon as possible to file a claim. The effective date of their claim depends on the day employees actually file their claims, not on the day they lose their jobs. Employees who file claims for unemployment compensation must also register for work at the same time. Unemployment claims may be filed at one of the twelve district offices as listed on the following page.

DISTRICT OFFICES

Barre Montpelier Office
Barre-Montpelier Road
P.O. Box 308
Montpelier, VT 05601-0308
802-828-3860

Brattleboro Office
State Office Building
232 Main Street, P.O. Box 920
Brattleboro, VT 05302-0920
802-254-4555

Bennington Office
State Office Building
One Veterans Mem. Dr., Box 2
Bennington, VT 05201-1998
802-442-6376

Burlington Office
59-63 Pearl Street
P.O. Box 310
Burlington, VT 05402-0310
802-658-1120

Middlebury Office
86 Exchange Street
Middlebury, VT 05753-1157
802-388-4921

Morrisville Office
Pleasant Street
P.O. Box 429
Morrisville, VT 05661-0429
802-888-4545

Newport Office
Bayview Business Park, Bld. 2
20 Farrant St., P.O. Box 665
Newport, VT 05855-0665
802-334-6545

Rutland Office
173 West Street
P.O. Box 279

Rutland, VT 05702-0279
802-786-5837

St. Albans Office
20 Houghton St., Rm. 101
St. Albans, VT 05478-2246
802-524-6585

St. Johnsbury Office
44 Eastern Avenue
St. Johnsbury, VT 05819-2730
802-748-3177

Springfield Office
25 Main Street
Springfield, VT 05156-2900
802-885-2167

White River Junction Office
Holiday Inn Dr., 3 Gilman Office Ctr.
P.O. Box 797
White River Jct., VT 05001-0797
802-295-8805

For questions regarding unemployment compensation benefits, contact the Benefits Section of the Department of Employment and Training, 802-828-4226.

WORKERS' COMPENSATION

Number 13.9

Effective Date: March 1, 1996

Subject: **WORKERS' COMPENSATION**

Applicable To: All classified employees, as well as temporary, exempt, and appointed, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

GENERAL INFORMATION

Workers' Compensation is a "no-fault" insurance program that provides medical and disability benefits for certain work-related injuries and illnesses. In certain circumstances, Workers' Compensation may also provide coverage for pre-existing conditions aggravated by work activities. Vermont law allows the employer to designate the physician that the injured employee may see. Failure to seek treatment with the designated care giver may lead to denial of the claim. Employees may seek alternate care following the initial visit to the designated physician via written request to the Department of Labor and Industry.

The Risk Management Division of the Department of General Services administers the State of Vermont Workers' Compensation Program.

DEFINITIONS

MEDICAL BENEFITS - Workers' Compensation provides coverage for all reasonably necessary medical services and supplies related to an on-the-job injury or illness. This may include not only physician visits and hospital costs, but also coverage for physical therapy, medication, chiropractic and other necessary treatments.

TEMPORARY TOTAL BENEFITS - This is wage replacement paid during the recovery period during which the employee is unable to work. Temporary total benefits are paid until the employee is able to return to work or reaches an end medical result.

TEMPORARY PARTIAL BENEFITS - These benefits are paid when an employee is able to return to work in some capacity, but is not yet back to work full time or in their original positions. Temporary partial benefits are paid until the employee is able to return to work full time or reaches an end medical result.

END MEDICAL RESULT - This is the point which the medical provider determines that there is no further treatment available that is expected to improve the employees' conditions Often, an employee may continue receiving treatment after reaching an end medical result to help maintain their level of functioning.

PERMANENT PARTIAL BENEFITS - Employees who have a permanent impairment as a result of their injury are entitled to compensation in the form of a permanent partial benefit. The Workers' Compensation statute provides a schedule from which these benefits are calculated based on the specific nature of the permanency and the degree of impairment. The permanent impairment is determined by employing the American Medical Association guidelines and is calculated in accordance with the Department of Labor and Industry regulations. In some circumstances, an independent medical examination may be requested by the Risk Management Division, in addition to the treating physician's evaluation, in order to obtain all necessary information. Employees must cooperate with the examination process or risk jeopardizing these benefits.

VOCATIONAL REHABILITATION - Employees who are unable to return to their original employment may be entitled to vocational rehabilitation assistance. The goal of vocational rehabilitation is to ensure that an employee is returned as quickly as possible to employment that is both safe and, given individual physical capacities, appropriate. Individual written rehabilitation plans must be developed and approved by the Department of Labor and Industry prior to implementation. Re-training plans must be reasonable and may last a maximum of one (1) year. Re-training opportunities are available to those individuals who do not have transferable skills.

WHEN TO REPORT AN INJURY OR DEATH

Injury: Every department must file an *Employer's First Report of Injury Form 1* within seventy-two (72) hours (Sundays and legal holidays excluded) of receiving notice or knowledge of each injury for which an employee loses time from work or requires medical attention. Departments must file this form whether or not they dispute the facts surrounding the injury.

Death: If the injury results in death, the fatality must be reported immediately to the Risk Management Division, 802-828-3100. An *Employer's Report of Fatal Accident Form 4*, as well as the *Employer's First Report of Injury Form 1* must be completed. The Risk Management Division will assist departments in filing these forms.

Failure to file could result in fines. The employee may file a *Notice of Injury and Claim for Compensation Form 5*, if the department fails or refuses to file an *Employer's First Report of Injury Form 1*. This action by the employee does not absolve the department from responsibility for filing an *Employer's First Report of Injury Form 1*.

Failure to file an *Employer's First Report of Injury Form 1*, whether the department agrees with the claim or not, could result in an administrative fine of up to $5,000.

REPORTING AN INJURY

Following are the procedures to be used to report a work related injury:

1. The employee should be advised to call Community Health Plan/Workplace Health Services (CHP/WHS) toll-free at 1-800-639-8039, to report the injury. CHP/WHS will direct the employee to a network doctor and will oversee the care given to the employee. If the employee is unable to call due to the seriousness of the injury, the supervisor, personnel officer, or designee may call and inform CHP/WHS of the accident **The employee must see a designated CHP/WHP doctor to be covered by Workers' Compensation.**
2. Within seventy-two (72) hours of the injury, the supervisor must complete an *Employer's First Report of Injury Form 1.*
3. It is the Risk Management claims adjuster's responsibility to determine compensability,process payment of Workers' Compensation lost time, and to coordinate and handle the claim.
4. The department must provide the employee with a Workers' Compensation Program information package, which may be obtained from CHP/WHP at 800-629-8039, or from the Risk Management Division at 802-828-3100.
5. Risk Management reimburses employees for specific related expenses, such as mileage to and from treatment beyond the distance normally traveled to the workplace.
6. A *Personnel Action* requesting a leave of absence for Workers' Compensation & Injury Pay must be completed when a law enforcement officer is injured due to an assault. The effective date is the first day of absence.

ABSENCE GREATER THAN THREE (3) WORK DAYS

Indemnity payments are made to an employee to replace wages lost due to a work related injury. To qualify, an employee must miss more than three (3) consecutive days of work. If the employee loses ten (10) or more consecutive days of work, the first three (3) days are then covered. An example of the first condition is an employee losing six (6) days from work due to an injury. The first three (3) days are unpaid, and the next three (3) days are paid. The second condition is demonstrated by an employee losing twelve (12) days. Since there were more than ten (10) consecutive days out, the entire twelve (12) days are eligible for wage replacement.

In the case of work-related assault on a law enforcement officer, all lost time is covered under special contract provisions.

Following are the procedures to be used for absences of more than three (3) days:

1. The employee must contact the agency/department personnel officer who must complete a personnel action for the injured employee's lost time.
2. The supervisor must fill out a *Wage Statement Form 25* for an employee who is injured and has missed more than three (3) days of work due to the injury. The

specific time period to be reported is the twelve (12) full weeks prior to the date of the injury.

Days lost during the pay period of injury should be coded on time reports as sick leave. Employees who do not have enough sick leave accrued to cover their lost time may report lost days as annual leave, if they have any accumulated. Any sick or annual leave used for this injury will be reimbursed to the employee if the claim is approved for Workers' Compensation indemnity, subject to the waiting periods outlined above.

3. The yellow copy of the *Wage Statement Form 25.* Must be sent to Risk Management along with a list of the injured employee's work schedule, stating the normal days off. The white copy of the *Wage Statement Form 25* must be sent to the Department of Labor and Industry.
4. Once the injury is approved as compensable by the Risk Management Workers' Compensation Division, beginning with the fourth day of injury the employee's time off should be reported on the time report as leave with no pay, Workers' Compensation. The first three (3) days <u>are not</u> covered unless the employee misses ten (10) or more days.
5. If an injury to a law enforcement officer is due to an assault, a personnel action must be completed requesting leave of absence, Workers' Compensation and Injury Pay. This is required regardless of the total days lost with the pay beginning with the first day of absence.
6. Risk Management will send the employee the *Certificate of Dependency* and *Employee Exemption* forms. The employee must complete these forms and return them to the Risk Management Division.

<u>WHEN AN EMPLOYEE RETURNS TO WORK</u>

When an employee returns to work either full or part-time, Risk Management must be notified in writing. This can be done by a letter or memo, by Office Vision (E-mail), or facsimile. This information is necessary so that Risk Management has an accurate record of the employee's lost time and of their return to work.

When an employee returns to work full time, the personnel officer must notify Risk Management of the employee's date of return. If the employee returns to work part-time, Risk Management must be notified each pay period of the hours worked during the pay period and the normal days off.

<u>WORKERS' COMPENSATION MEDICAL TREATMENT</u>

In the following situations, employees are **<u>not</u>** required to use sick or annual leave for the treatment of a Workers' Compensation injury:

- When the employee has been injured, required treatment, and returned to work on the same day.

- When the employee attends a medical examination or therapy session during work hours that could not have been reasonably scheduled during non-work hours. The supervisor may require the employee to schedule medical examinations during off duty hours if reasonable (for example, a second or third shift worker). Only under these circumstances, if the employee elects not to schedule their treatment outside of work hours, can the employee's sick leave or wages be deducted in accordance with normal personnel practices.

This provision for medical treatment does not take the place of the three (3) day waiting period for indemnity; it only applies to the time directly related to the physician visit or related treatment (physical therapy as an example). This provision does not apply to bed rest or recuperation. Normal travel time to and from appointments does apply.

SUMMARY OF BENEFITS

An employee suffering a work related injury or illness will receive payment of related medical costs without deductible or co-pay. If as a result of the injury or illness the employee is unable to work for more than three (3) days, the employee will receive temporary total benefits. These benefits are calculated at two-thirds of the average weekly wage, before taxes, for the twelve (12) weeks prior to the injury or illness beginning with the week prior to the date of injury. The benefit is subject to a maximum and minimum and is non-taxable. A supplement is allowed for each dependent child.

Temporary total benefits will continue until the employee is able to return to work or reaches an end medical result, whichever comes first. If a physician releases the employee to part-time work during an on-going period of recovery, the employee is entitled to temporary partial disability benefits. This benefit compensates the employee for two-thirds of the difference between their pre-injury and post-injury wage. These benefits will continue until the employee either returns to their former position or reaches an end medical result.

When employees reach a maximum point of improvement (and end medical result) they may be entitled to a permanent partial disability benefit as compensation for their permanent impairment as a result of their work related injury or illness. Risk Management will follow-up on these cases and make the necessary arrangements for finalization of the claims. The end medical point does not release the State from the obligation of paying for related continuing medical care. It does provide resolution regarding wage replacement benefits.

MEDICAL, LIFE AND DENTAL BENEFITS UPON SEPARATION FROM ACTIVE EMPLOYMENT

Number 13.10

Effective Date: March 1, 1999
Subject: **MEDICAL, LIFE AND DENTAL BENEFITS UPON SEPARATION FROM ACTIVE EMPLOYMENT**
Revision Date: October 1, 1999

Applicable To: All classified employees, as well as exempt and appointed, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this policy is to define the medical, dental and life insurance benefits available to employees upon separation from State service. This policy does not address employee issues which are covered under the rules of the Family and Medical Leave Act (FMLA). For more information about those policies and procedures, contact the Employee Relations Division of the Department of Personnel.

Section 13.100 - Retirement

MEDICAL - If employees retire and are covered by any of the medical plans offered to State employees, they may continue coverage at the same level by continuing to pay their 20% share of the premium. If retirees receive a pension, the premium will be withheld from that pension. Employees may not change from one health plan to another health plan at retirement

DENTAL - Retirees are not eligible for dental coverage in retirement except under certain circumstances. If a retiree meets specific criteria, a Consolidated Omnibus Budget Reconciliation Act (COBRA) application will be sent to them by the agency or department Personnel Officer. Retirees may continue dental coverage under COBRA for up to eighteen (18) months, or until the retirees no longer meet the COBRA eligibility requirements, whichever is earlier. In any event, COBRA dental coverage ends when the retiree becomes eligible for Medicare.

LIFE - Employees who have attained twenty (20) years of creditable service and are covered by life insurance at retirement are provided $5,000 of life insurance coverage at no cost to them. The amount of active employee group life insurance may also be

converted to an individual policy. Contact the Employee Benefits and Wellness Division of the Department of Personnel or your personnel officer for conversion information.

Section 13.101 - Resignation

MEDICAL/DENTAL - If employees resign from State service, medical and dental coverage will end at midnight on the last day of the pay period following the date of termination in most circumstances. Either or both coverages may be continued by enrolling in COBRA, which allows employees to continue in their group plan for a period of up to eighteen (18) months by paying 102% of the premium. COBRA applications are sent to employees by their personnel officer following the resignation. Enrollment in COBRA must be done within sixty (60) days of termination of coverage.

LIFE - The Group Life Insurance may be converted to an individual policy within thirty-one (31) days following termination of coverage. The Group Life Insurance terminates at the end of the pay period in which the employee termination occurs.

Section 13.102 - Dismissal

MEDICAL/DENTAL - If employees are dismissed from State service, medical and dental coverage will end at midnight on the last day of the pay period following the date of termination in certain circumstances. Either or both coverages may be continued by enrolling in COBRA, which allows employees to continue in their group plan for a period of up to eighteen (18) months by paying 102% of the premium. COBRA applications are sent to employees by their personnel officer following dismissal. Enrollment in COBRA must be done within sixty (60) days of termination of coverage. The COBRA law provides that COBRA coverage is not available to persons who are dismissed for gross misconduct. When consulting with the Employee Relations Division on dismissal, the issue of withholding COBRA rights should be discussed.

LIFE - The Group Life Insurance may be converted to an individual policy within thirty-one (31) days following termination of coverage. The Group Life Insurance terminates at the end of the pay period in which the employee termination occurs.

Section 13.103 - Reduction in Force/Disability Reduction in Force

MEDICAL - If employees are laid off due to reduction in force, or disability reduction in force, medical coverage will terminate at midnight on the last day of the pay period following the pay period in which the employee is laid off. Employees are offered an option to continue in the medical plan for a period of up to two (2) years providing they retain reemployment rights under the Reemployment Rights Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) and continue to make the required payments. If employees elect this option, an **advance** payment of their 20% share of the premium is due for the first six (6) pay periods following the date of termination. After that, employees must <u>pay</u>

the full 100% premium in advance. Once coverage lapses, it cannot be reinstated until employees are reemployed in accordance with contract provisions.

Upon reemployment under RIF rehire provisions, medical coverage is activated immediately if an employee re-enrolls in the Medical Plan.

NOTE: The six (6) pay period continuation of coverage at 20% premium share is available to any employee who is subsequently returned to layoff status after having accepted a reemployment offer.

DENTAL - Dental coverage is automatically continued at no cost to the employee for four (4) pay periods following the end of the pay period in which the employee is laid off. After that time, employees are eligible to continue the dental coverage under COBRA for a period of up to eighteen (18) months. The dental COBRA application is sent to employees by the Personnel Officer and application for COBRA must be filed within sixty (60) days of termination of coverage. Upon return to employment, under the RIF rehire provisions, dental coverage will be activated immediately.

LIFE - Life insurance coverage will terminate at midnight on the last day of the pay period following layoff. The conversion option is available. Upon return to employment, under the RIF rehire provisions, life insurance coverage is activated immediately if employees re-enrolls in the Life Insurance Plan.

Section 13.104 - Disability Retirement

MEDICAL - If employees are not on payroll or terminate employment following application for and prior to the approval of disability retirement, they must maintain medical coverage through COBRA. If the disability retirement is approved, medical coverage will be retroactive to the date approved for the disability retirement, except in circumstances where employees are on Workers' Compensation. If employees are on Workers' Compensation, disability retirement cannot begin until those payments cease. Medical coverage with COBRA must continue until the disability pension commences. If there are any questions regarding the Workers' Compensation issue, the Retirement Division should be contacted directly.

Any payments made for the medical COBRA continuation, from the effective date of disability retirement approval, will be refunded to employees upon request to the Employee Benefits Division of the Department of Personnel. Employees will have medical premiums deducted from their pension checks, at the 20% employee share, retroactive to the effective date of disability retirement.

DENTAL - Retirees may be eligible to continue dental coverage, under certain circumstances, following two (2) months unpaid leave of absence or termination. If they meet the criteria, a COBRA application will be sent to them by the agency/department personnel officer. Eligible retirees may continue dental coverage under COBRA for up to eighteen (18) months, or until they no longer meet the COBRA eligibility

requirements, whichever is earlier, by paying 102% of the premium. In any event, COBRA dental coverage ends when a retiree becomes eligible for Medicare.

LIFE - To continue life insurance coverage (not Accidental Death & Dismemberment), disabled employees who terminate must apply to the Retirement Division. If approved, the insurance premium will be paid 100% by the Retirement Division. More information can be obtained by contacting the agency or department personnel officer, Retirement Division, or Department of Personnel, Employee Benefits Division.

Section 13.105 - Leave of Absence

MEDICAL- Employees who are on an unpaid medical leave of absence may continue in the plan by paying their 20% premium directly to the Department of Personnel, Payroll Division in advance on a bi-weekly basis. Prior to the start of a leave of absence, the personnel officer shall provide a Leave of Absence form to the employee. This form must be completed and submitted to the Payroll Division with the first payment. If the form is not received, medical coverage will terminate at the close of the pay period following the start of the leave of absence. If medical coverage is terminated, employees may not re-enroll in the plan until the next open enrollment period (usually in the month of November) to become effective January 1st.

Employees who are on an unpaid administrative leave of absence may continue in the plan by submitting the appropriate form and paying 100% of the premium in advance directly to the Payroll Division on a bi-weekly basis. If the form is not received, medical coverage will be terminated at the close of the pay period following the start of the leave of absence. If medical coverage is terminated, employees may not re-enroll in the plan until the next open enrollment period (usually during the month of November).

Employees who are on an unpaid military leave of absence may continue in the plan by submitting the appropriate form and paying 100% of the premium in advance directly to the Payroll Division on a bi-weekly basis. The State medical benefit plan does not cover medical expenses incurred while serving in the military, thus, many employees on military leave choose to allow their insurance to lapse. However, upon return to employment, medical coverage will be reactivated immediately if the employee re-enrolls in the Plan.

DENTAL - Dental coverage automatically continues for a period of four (4) pay periods following the start of any unpaid leave of absence. After that time, employees may continue the dental coverage until the end of the leave up to 18 months by enrolling in Dental COBRA and paying 102% of the premium. Upon return to employment, dental coverage will be reactivated immediately.

LIFE - Life insurance coverage will be continued during any unpaid leave of absence for illness, and the State will pay the entire premium for a period not to exceed twelve (12) months. Upon return to employment, the employee premium share for the period of the

leave will be charged to the employee and life insurance coverage will be activated immediately.

If employees are on an unpaid leave of absence for any other reason except illness, life insurance coverage will be canceled the last day of the month following the month during which the leave began. Upon return to employment, life insurance coverage will be activated immediately.

In either of the above instances, the life insurance may be converted to individual plans following termination of the insurance coverage.

Section 13.106 - Disciplinary Suspensions

MEDICAL - Employees who are suspended without pay may continue in the plan by paying their 20% premium directly to the Payroll Division in advance on a bi-weekly basis. Prior to the suspension, the Personnel Officer should provide a *Leave of Absence* form to the employee. This form must be completed and submitted to the Payroll Division with the first payment. If the form is not received, medical coverage will terminate at the close of the pay period following the start of the suspension. If medical coverage is terminated, employees may not re-enroll in the plan until the next open enrollment period (usually during the month of November).

DENTAL - Dental coverage automatically continues during a suspension without pay.

LIFE - Life insurance coverage will be continued during a suspension without pay.

Signed by Kathleen C. Hoyt, October 25, 1999

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Approved, Secretary of Administration

CHOICE PLUS WELLNESS SCREENINGS

Number 13.11

Effective Date:	March 1, 1996
Subject:	**CHOICE PLUS WELLNESS SCREENINGS**
Revised Date:	July 1, 1999
Applicable To:	All classified employees, as well as exempt and appointed, with the Executive Branch of the State of Vermont.
Issued By:	Department of Personnel
Approved By:	Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this policy is to define the Wellness Program and who is eligible to participate in it.

ELIGIBILITY

Employees who are enrolled in the Choice Plus indemnity medical plan are eligible for the services of the Wellness Program.

BENEFITS

Health Promotion/Health Care Counseling/Referrals/Cholesterol/Hypertension Screenings

On a regular basis the program offers a variety of worksite health promotion to active State employees. Participation in the programs is voluntary. The privacy of employee health information is carefully protected.

The one-on-one Wellness clinic appointments are designed to help employees identify lifestyle behaviors and/or risk factors such as smoking, stress, diet, exercise, alcohol/drug abuse, safety/work behaviors/conditions and medical and/or genetic factors which may endanger their health. Once risk factors are identified, the regional Wellness nurse provides individualized care counseling, health education, referrals and resources to help employees develop and maintain positive lifestyle behavior changes. The nurses help employees to become more aware as health care consumers and refer employees to other areas of State government where needs can be appropriately addressed, including EAP, Worker's Compensation, Loss Prevention, VOSHA, Employee Benefits, Buildings Management, Employee Relations, The Cyprian Learning Center and Safety and Personnel Officers.

The half-hour clinic appointment is used to obtain blood pressure readings, review the employee's health history, nutrition and health risk questionnaires, and provide the follow-up recommendations and referrals which may be necessary. Since 1995, the Wellness Program has been testing for both total and HDL cholesterol. The nurses interpret the results for employees and help them target specific lifestyle changes, which may reduce cardiovascular risk. Pertinent pamphlets and videos are available to employees to help them increase their knowledge and participate more fully in health care decisions.

To set up the clinics, the regional Wellness nurse works with the department contact person for the site where the clinic is to be held. If the clinic is not workable for some employees, the department contact person may contact the Wellness office and find another clinic date suitable for them at a nearby site.

The nurses act as Wellness mentors. Their knowledge is based on scientific research and recommendations but their practice with the employee is more an art than a science. They create safe, caring, confidential relationships for helping each employee reach his or her wellness goals.

Merit Behavioral Care (MBC) Courses: A variety of lifestyle management programs are offered through Vermont MBC at no cost. These Wellness programs are offered to active Choice Plus members. Lifestyle management means learning how to identify and then manage the situations and challenges of everyday life. Each program is designed to help teach practical ways of managing the pressures or problems of everyday life. All the workshops are provided in a supportive group setting. The workshops are provided or supervised by qualified professionals who can help employees lead healthier and more productive lives. For more information contact Merit Behavioral Care at 1-800-866-4303.

Signed By Kathleen C. Hoyt, August 3, 1999

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Approved, Secretary of Administration

WHEN AN EMPLOYEE DIES IN ACTIVE SERVICE

Number 13.12

Effective Date: July 1, 1999
Subject: **WHEN AN EMPLOYEE DIES IN ACTIVE SERVICE**

Applicable To: All classified employees, as well as exempt and appointed, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this policy is to describe the procedures that should be followed when an active employee dies. The State, as an employer, owes all necessary information, help and service to the immediate family of an employee who dies in active service. Agencies and departments should respond compassionately and humanely to the family's needs.

GENERAL GUIDELINES

All managers and supervisors should be aware that they must immediately inform the agency/department personnel officer of the death of an employee. The Personnel Officer will determine whether the employee was a member of the State's life insurance plan, and, if so, identify the beneficiary(ies) is, and the amount of any insurance benefit to be paid.

The Personnel Officer should contact beneficiary(ies) as soon as possible after the death to inform them about life insurance benefits. A telephone call is preferable to sending a letter to the beneficiary(ies). **No information about life insurance benefits should be provided to anyone except the beneficiary(ies)**. Personnel Officers should also coordinate with the family about the employee's final pay check, accounts at the credit union, retirement, VSEA, health insurance, etc. Please be sure to read this entire section even if there is no life insurance coverage. There are procedures to be followed.

CONFIDENTIALITY

The amounts of insurance, names of beneficiaries, retirement benefits, and other information are **personal and confidential and must be treated as such**. This

information must not be divulged to anyone in the office, or any family member other than the beneficiary(ies).

PROCEDURES TO FOLLOW UPON AN EMPLOYEE'S DEATH

1. Paycheck: A personnel action must be completed that terminates the employee from State government. The fact of the employee's death and the total number of accrued annual leave days should be specified on the action. This will ensure an accurate and prompt final paycheck. Compensatory accruals will be paid in the last check. Unused personal leave and sick leave accruals are not payable. Deductions will be made only for federal and State taxes and retirement (if applicable) from the final pay check.

The Personnel Officer should also check with the immediate supervisor to determine if an expense account needs to be submitted to the Department of Personnel Payroll Division.

2. Life Insurance: To determine whether the employee was covered by the life insurance plan, the Personnel Officer should call the Employee Benefits and Wellness Division in the Department of Personnel at (802) 828-3670. They can verify that the employee was covered and provide claim information.

The face amount of the insurance is two times the employee's current base annual salary, rounded to the next lower $100. For example, $15,729 in base salary equals $31,400 life insurance benefit. Exceptions: if the employee's salary is less than $20,000 annually, the amount of life insurance will be $20,000. There are a few employees who have $3,000 of life insurance from previous benefits arrangements.

If the covered employee died from bodily injury caused by an accident, the insurance plan will pay double the amount of the employee's life insurance coverage. This additional amount is called accidental death and dismembermemt coverage or AD&D. The fact of accidental death will usually be noted on the death certificate. It is always a good idea to attach supporting documentation to the insurance claim report such as a police report to a newspaper clipping describing the accident. In obvious cases, the accidental death benefit will be paid at the same time as the ordinary death benefit. When death by accident is questionable, the decision whether or not to pay the additional benefit would be made after an investigation by the insurance carrier. The basic death benefit would be paid in the meantime. Suicide is specifically excluded from the AD&D coverage, but the basic amount of life insurance will be paid.

3. Filing the Claim: The Benefits Division of the Department of Personnel will file the claim for death benefits with the insurance carrier. To do so, the following are needed from the family: 1. a certified copy of the death certificate and 2. a W-9 Request for Taxpayer Identification Number and Certification, signed by the beneficiary(ies).

The Benefits Division staff will forward the W-9 form(s) to the beneficiary(ies) for completion as soon as addresses are known. When the certified death certificate and

the completed W-9 forms are received, the Benefits Division staff will complete the claim form and forward all needed information to the insurance carrier. No action by the beneficiary (ies) is needed to file the claim. The insurance carrier will process the claim and forward the benefit check(s) to the Benefits Division who, in turn, will mail it to the beneficiary(ies) by certified mail.

4. Death Certificates: It is the responsibility of the Agency/Personnel Officer to obtain copies of the death certificates for the personnel action. It should not be requested from the family. In Vermont, death certificates are originated by the doctor and given to the funeral director, who has ten (10) days to complete the certificate and file it with the Town Clerk in the town where the employee died (not where the employee lived). The Town Clerk issues certified copies, which must have a raised embossed seal on it. Photocopies of the death certificate are unacceptable as proof of the employee's death. The funeral director can assist the Personnel Officer in obtaining the death certificate. As many as eight (8) copies of the death certificate may be needed. The Town Clerk will mail the necessary copies to the Personnel Officer and may bill the agency/department a small fee for the copies.

Following is a check list to determine how many copies of the death certificate may be needed:

_____ Employee Benefits Division, Department of Personnel

_____ Retirement Office

_____ Deferred Compensation

_____ Single Deposit Investment Account

_____ Vermont State Employees' Credit Union

_____ VSEA Accident Policy

_____ Workers' Compensation/Risk Management

_____ Federal Public Safety Officer Benefits

5. Health Insurance: If the employee had coverage for dependents, the Personnel Officer must send the dependents a COBRA application. NOTE: Domestic partners are not eligible for COBRA benefits. If the dependents are eligible for Medicare, they are not eligible for COBRA coverage. For active employees, regular coverage will continue through the pay period following the pay period in which the employee died. The Personnel Officer can check with the Retirement Division to determine if the surviving spouse can continue to remain on the plan by paying the full premium.

6. Retirement: The Personnel Officer must notify the Retirement Division by telephone (802-828-2305) that the employee has died. There are three (3) benefit plans which may be involved:

(a) Retirement System
(b) Deferred Compensation Plan
(c) Single Deposit Investment Account

The Single Deposit Investment Account is the account into which many employees invested all or part of their contributions to the Retirement System when they changed from the old system to the new one.

The benefits of all three (3) systems can be complex and also may require counseling information to the beneficiary. Each account may have a different beneficiary. The Personnel Officer should notify the family that they will be contacted by the Retirement Division within 7 to 10 days to discuss these matters.

The Personnel Officer should discuss the individual circumstances with the Retirement Division to determine if there will be any impact on other benefits they may be discussing with the deceased 's family. For example, if the deceased employee was eligible for early retirement, the spouse may be eligible for a survivor benefit and, therefore, eligible to remain in the health insurance plan with payment of the full premium (no State contribution). The personnel officer should work with the Retirement Division to determine the best way to handle each situation as it arises.

7. Vermont State Employees' Credit Union: The Personnel Officer must notify the VSECU of every employee's death. The employee may have an account there even though they do not currently have a VSECU deduction being made from their pay check. The VSECU will pay the amount in a savings account according to their rules and applicable laws.

8. VSEA Insurance Coverages: The Personnel Officer should advise the family to contact VSEA at (802) 223-5247 to find out if the employee was a VSEA member and covered by any of VSEA's insurance coverages. VSEA offers life, AD&D, Disability and other supplemental coverages to members.

9. Social Security: The Personnel Officer should inform the family to contact Social Security to discuss any possible death benefit.

ON-THE-JOB ACCIDENTAL DEATH

If an employee dies accidentally, on-the-job, the personnel officer, in addition to the above must notify the following:

1. VOSHA: The personnel officer should notify VOSHA immediately.

2. Workers' Compensation: The agencies/Personnel Officer should file the "First Report of Injury" form within the required 72 hours. The Department of Labor and Industry can provide more information about the benefits payable to family survivors. Departments with additional insurance and bonding requirements must also file any required notifications.

3. Federal Public Safety Officers and Benefits: The federal law provides lump sum Payments to certain dependents of public safety officers killed in the line of duty. The term "public safety officer" includes firefighters and certain other law enforcement officers in addition to State Police.

Signed By Kathleen C. Hoyt, August 6, 1999

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Approved, Secretary of Administration

Section 14

ANNUAL LEAVE

Number 14.0

Effective Date: March 1, 1996
Subject: **ANNUAL LEAVE**
Revision Date: July 1, 1999

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The State provides employees with an opportunity to accrue annual leave in order to have periods of rest and relaxation from their job, and to promote good health and well-being.

The purpose of this policy is to establish the policies and procedures by which classified employees receive time off from work for vacation or personal convenience.

DEFINITIONS

ACCRUAL RATE - is the number of hours the employee shall accrue per complete payroll period of service.

ACCUMULATION CAP - is the maximum number of annual leave hours an employee may accumulate.

ANNUAL LEAVE - paid authorized absence for vacation or personal convenience.

GENERAL GUIDELINES

The Annual Leave Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) must be adhered to when administering annual leave.

Employees are encouraged to request annual leave in blocks of time sufficient to ensure rest and relaxation, however, they may request and may be granted briefer

amounts of annual leave. During the first six (6) months of employment, annual leave credits are not accumulated and may not be used.

Temporary employees and individuals performing services under contract do not earn annual leave.

AMOUNT OF LEAVE EARNED AND CAPS

Employees shall be credited with forty-eight (48) hours of annual leave on the first full payroll period following completion of their first six (6) months' of service. The accrual rates and accumulation caps for most employees are as follows:

YEARS OF SERVICE	ACCRUAL PER PAY PERIOD	ACCUMULATION CAP
0-5 years	3.69 hours	240 hours
5-10	4.62	280
10-15	5.54	320
15-20	6.13	340
20-30	6.46	360
30+	7.38	360

NOTE: Certain groups of employees accumulate leave at a different rate of hours per day (such as State Troopers, Fire-Fighters, etc.) in accordance with the terms of the applicable labor contracts.

Permanent part-time employees earn leave on a pro-rated basis based on their assigned number of regularly scheduled work hours.

USE OF LEAVE

Managers and supervisors are encouraged to try to schedule vacations in accordance with the wishes of their employees, consistent with the needs of the agency or department. However, vacation scheduling is the exclusive prerogative of the appointing authority. Leave must be requested in advance by the employee and is subject to approval by the appointing authority (or designee). Such approval shall not, however, be unreasonably withheld.

Employees shall not be charged annual leave for absence on a legal or administrative holiday.

Employees who are off payroll, or on an unpaid leave of absence for twenty (20) hours or more in a pay period (pro-rated for part-time employees) shall not accrue annual leave for that pay period.

Time spent on a leave of absence to serve in the armed forces of the United States shall be counted for computing total years of employment to determine employees' rates of annual leave accrual.

Employees who separate from State employment are eligible to have up to one-hundred sixty (160) hours of unused annual leave accrual paid as a lump sum with their final paycheck. However, in the event of a classified employee's death or separation due to retirement directly from active service, the total accrued annual leave balance will be paid as a lump sum.

Employees who fail to give their appointing authority two (2) weeks' notice of their resignation, shall forfeit the number of unused annual leave hours by which the notice is deficient (not to exceed two weeks), unless waived by the appointing authority.

Signed By Kathleen C. Hoyt, August 3, 1999

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Approved, Secretary of Administration

SICK LEAVE

Number 14.1

Effective Date: March 1, 1996
Subject: **SICK LEAVE**
Revision Date: July 1, 1999

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It is the policy of the State to help protect the income of classified employees who cannot work due to illness or injury or for emergency periods when employees must be absent from duty due to death or illness in their immediate family.

The purpose of this policy is to establish the State's policies and practices which provide for classified employees to be absent from duty with pay in the event of illness or injury.

DEFINITIONS

ACCRUAL RATE - is the number of hours the employee shall accrue per complete payroll period of service.

SICK LEAVE - paid authorized absence from duty due to employee's illness, injury or quarantine; for his or her medical or dental appointments which cannot reasonably be made outside of working hours; or for death or illness in the employee's immediate family.

IMMEDIATE FAMILY - parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, foster child, any person residing with the employee, and any family member for whom an employee is primarily responsible either to arrange for health care or to provide care.

WORKDAY - a regularly scheduled day of work which shall begin at the time the employee's regular and normal work schedule begins and continues for twenty-four (24) consecutive hours.

GENERAL GUIDELINES

The Sick Leave Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) must be adhered to when administering sick leave.

Sick leave benefits may not be used by employees prior to being credited to their accounts.

Temporary employees and individuals performing services under contract do not earn sick leave.

ACCRUAL OF SICK LEAVE

Upon appointment to the classified service, employees are credited with a bank of forty-eight (48) hours of sick leave that employees may use during the first six (6) months of service.

At the end of the first full payroll period following completion of their first six (6) months' of service, and at the end of every pay period thereafter, employees shall be credited with sick leave for that payroll period as follows:

YEARS OF SERVICE	ACCRUAL PER PAY PERIOD
0-5 years	3.69 hours
5-10	4.62
10-20	5.54
>20	6.46

There is no limit on the total amount of sick leave that employees may accumulate.

Permanent part-time classified employees earn sick leave on a pro-rated basis based on their assigned number of regularly scheduled work hours.

When classified employees separate from State service, the entire amount of unused sick leave shall lapse.

USE OF SICK LEAVE

The use of earned sick leave shall be authorized by an appointing authority (or designee) for employees who are absent from work and unable to perform their duties because of illness, injury, or quarantine for contagious disease. The use of such leave shall also be authorized for employee medical and dental appointments that cannot reasonably be made outside employees' normal work hours.

The use of sick leave may be authorized by an appointing authority to permit classified employees to be absent from duty due to death or illness in their immediate family. Such absences shall be authorized for the period of time specified in the applicable

contract which should be sufficient time in which to make funeral arrangements and to attend to family matters, or in instance of family illness, to arrange for continued care of the ill family member. In extremely unusual circumstances, the appointing authority may authorize use of additional sick leave.

Employees who have an accumulated sick leave balance shall be authorized its use although recovery and return to duty is impossible. At the request of the appointing authority, the disability or illness and inability to perform position requirements, must be periodically certified to by a licensed physician or osteopath.

If a female employee is unable to work because of pregnancy or any medical condition related to pregnancy, she may use accumulated sick leave under the same conditions which apply to other illnesses and disabilities, and as provided for in the Parental Leave Article of the current contract. If the employee wishes to extend the period of absence beyond the time when she is physically unable to work, she may use accumulated annual or compensatory leave time, and/or she may request a leave of absence under the Family and Parental Leave Article.

Unless physically unable to do so, employees shall notify their supervisor (or other person designated by the appointing authority) of their inability to report to work and the nature of the illness, no later than one (1) hour prior to the beginning of the scheduled workday.

When there is sufficient reason, an appointing authority may require an employee to: submit a physician's certificate or other evidence to justify the approval of sick leave; or to furnish evidence of good health and ability to perform work without risk to self, co-workers, or the public as a condition of returning to work. Whenever a physician's certificate is required as a condition of approval of sick leave usage, the time period for such requirement shall not normally exceed six (6) months (unless specifically imposed for a lesser period of time), and may be extended for up to an additional six (6) months.

The State may require an employee to be examined by a physician designated by the employer, at State expense, for the purpose of determining the employee's fitness for duty.

Employees who misrepresent their claims for sick leave may be subject to disciplinary action up to and including dismissal.

If an employee becomes ill during a scheduled vacation, to the extent that hospitalization is required, the employee's absence from the date of hospitalization may be charged to sick leave rather than annual leave. Employees who are on vacation and become ill and are confined to their home for three (3) or more days pursuant to a physician's order (as evidenced by a physician's certificate), may have that time charged to sick leave.

RESPONSIBILITIES

Employees shall:

1. Give their supervisors advance notice of absence due to illness if employees have advance knowledge of required treatment.
2. Notify their supervisors no later than the first hour of the beginning of the scheduled workday, if possible, of their inability to report to work, and the nature of the illness.
3. Notify their supervisors as soon as possible when time off from work is necessitated by a family emergency or illness.
4. Obtain a physician's certificate as verification of their illness, if requested by supervisors.

The appointing authority (or designee) shall:

1. Advise new employees of the sick leave provisions of the contract and this policy.
2. In the instance of extended illness, keep informed as to employees' physical condition and anticipated date of return to work.
3. Ensure that sick leave is not misused, and if necessary, require submission of evidence as to the necessity for the leave.
4. Ensure that the provisions of the sick leave article of the contract are observed in their agency or department.
5. Report the use of sick leave on the Department of Personnel payroll time reports.

EFFECTS ON LEAVE ACCRUALS

Employees who take a leave of absence to serve in the armed forces of the United States shall receive credit for time served for the purposes of determining the rate of sick leave accrual, but shall not accrue sick leave while on military leave. Employees must have been honorably discharged and apply for return to their position with the State within ninety (90) days before or after termination from active duty for training.

Employees on sick leave before and/or after a legal or administrative holiday shall not be charged sick leave for absence on a day observed as a legal or administrative holiday.

An employee awarded weekly compensation under the provisions of the Workers' Compensation Act may be granted sick leave (or annual leave when sick leave is exhausted) for the difference between such compensation and the employee's regular rate of pay.

Section 14.10 - Long-Term Disability Sick Leave Bank

Employees (other than those covered by the State Police Bargaining Unit contract) may donate up to fifty (50) percent of their annual leave entitlement and up to all of their accrued personal leave entitlement to a Long-Term Disability (LTD) Sick Leave Bank,

provided that employees retain at least ten (10) annual leave days after such donation is made. Individual Bargaining Units have separate LTD Sick Leave Banks.

The LTD Sick Leave Banks are for the benefit of Bargaining Unit employees who are absent from work for at least thirty (30) continuous calendar days due to a non-job related, long-term disability and who have used all their sick leave. Those employees are eligible whether or not they have contributed to the LTD Sick Leave Bank, or whether or not they are expected to return to work.

The LTD Sick Leave Banks operate on a fiscal year basis, from July 1 through June 30 of each year and are administered by a joint Labor-Management Committee for each Bargaining Unit.

Signed By Kathleen C. Hoyt, August 3, 1999

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Approved, Secretary of Administration

FAMILY AND PARENTAL LEAVE

Number 14.2

Effective Date: March 1, 1996

Subject: **FAMILY AND PARENTAL LEAVE**

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It is the policy of the State of Vermont to permit employees reasonable time off to care for dependent children in instances such as illness, birth, or adoption, and in the case of serious illness of a family member of an employee's immediate family.

This policy complies with the Family and Medical Leave Act (FMLA), 29 CFR 825, and the State Parental and Family Leave Law, 21 VSA 470-474.

The purpose of this policy is to establish the policies and procedures by which classified employees may receive time off from work for family leave purposes.

For employees not covered by the Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) (See Eligibility Under Federal Law).

DEFINITIONS

IMMEDIATE FAMILY - parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, foster child, any person residing with the employee, and any family member for whom an employee is primarily responsible either to arrange for health care or to provide care.

FAMILY LEAVE - a leave of absence from employment by an employee in the case of serious illness of the employee's immediate family.

PARENTAL LEAVE - a leave of absence from employment for the birth of an employee's child; or for the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption.

SERIOUS HEALTH CONDITION - illness, injury, impairment, or physical or mental condition that involves: inpatient care in a hospital, hospice, or residential medical care facility; or continuing treatment by a health care provider.

GENERAL PROCEDURES

The Family Leave Article of the current contract must be adhered to when administering this policy.

Employees are responsible for requesting leave from their supervisors with as much advance notice as possible.

For purposes of administering this policy, eligible employees are entitled to use twelve (12) weeks of family leave in during each fiscal year.

Each department is required to post copies of the Vermont Parental and Family Leave Law posters in conspicuous places. These posters are supplied by the Department of Labor and Industry.

ELIGIBILITY UNDER FEDERAL LAW

To be eligible for family and parental leave employees must have been employed by the State for at least twelve (12) months; and must have provided at least 1,250 hours of service during the twelve (12) months immediately preceding the leave request (not counting paid vacation and sick hours).

ADOPTION

Employees (both male and female) may request and shall be granted an administrative leave of absence, without pay, for up to six (6) months when they adopt a child. Employees may use accumulated leave at the beginning of the leave period, in the following order: compensatory time, personal leave, or annual leave. The amount of unpaid leave shall be granted, with the combination of paid and unpaid leave, not to exceed a total of six (6) months.

PREGNANCY AND CHILDBIRTH

Employees may request an administrative leave of absence for pregnancy and childbirth as follows:

1. Sick leave for the period of disability resulting from pregnancy, miscarriage, abortion, or illness resulting therefrom will be granted.

2. Sick leave for up to six (6) weeks following childbirth will be granted to the mother, and may be extended upon request to the appointing authority. The appointing authority may request medical certification of the continuing disability.

3. When the mother is no longer physically disabled, she will be permitted to use accumulated leave accruals before taking a leave of absence without pay. The order of leave usage will be compensatory time, personal leave, and annual leave.

4. A leave of absence without pay for male or female employees shall be granted for a period of up to four (4) months, and may be extended upon request to the appointing authority. The combination of this unpaid and any paid leave accruals shall not exceed six (6) months without the approval of the appointing authority.

SERIOUS ILLNESS

In case of serious illness of a member of an employee's immediate family, an administrative leave of absence without pay shall be granted, on request, for a period not to exceed twelve (12) weeks during any twelve (12) month period. For the first ten (10) days, an employee may use sick leave to provide or arrange for care of a member of the employee's immediate family. Employees may take this leave intermittently (a few days or a few hours at a time) or on a reduced leave schedule.

Employees who elect to use paid leave shall use accumulated leave in the following order: compensatory time, personal leave, annual leave in excess of ten (10) days, and sick leave. The combination of paid and unpaid leave shall not exceed twelve (12) weeks, and usage of paid sick leave shall not exceed six (6) weeks.

REQUESTING LEAVE

Employees are required to give reasonable advance notice (at least two weeks) in the event of a foreseeable leave. A *Request for Family Leave* form (See Attachment A) must be completed by employees and returned to their supervisor within fifteen (15) days after the leave was requested, or as soon as is reasonably possible. In unexpected or unforeseen situations, employees should provide as much notice as is practicable (usually verbal notice within one or two business days of when the need for leave becomes known), followed by a completed *Request for Family Leave* form.

Additionally, employees may be asked to provide medical documentation of their own serious illness by completing a *Medical Certification - Employee* form (See Attachment B); or to provide medical documentation of their family member's illness by completing a *Medical Certification - Family Member* form (See Attachment C).

RESPONSIBILITY OF EMPLOYER

It is the department's obligation to designate leave, paid or unpaid, as Family Leave. This designation may be made only on the basis of information provided by the employee. The supervisor's notification to an employee of Family Leave may be oral. However, the department must confirm the Family Leave designation in writing no later than the next regular payday.

The department may only designate Family Leave retroactively if:

- the employee has been out of work and the department does not learn that the reason was for a family leave situation until after the employee returns (in which case the department must designate the leave upon the employee's return to work); or
- the department has provisionally designated leave as Family Leave and is awaiting receipt of medical certification or other reasonable documentation.

If the employee gives notice of the reason for the leave later than two (2) weeks after returning to work, the employee is not entitled to the protection of the FMLA.

EFFECT ON BENEFITS

Employees who are granted leave under this policy and are enrolled in the group medical benefit plan, and/or the life insurance plan, may continue their coverage under the same conditions as if they had been continuously employed during the leave. If employees are enrolled in the medical benefit plan, the State will continue to pay 80% of the cost of the premiums. However, in the case of an unpaid family leave, employees are required to pay their 20% share of the premium directly to the Payroll Division each pay period.

Except in the case of serious illness, employees who do not return to work will be required to repay to the State the cost of medical premiums paid during the leave.

Employee Request for Parental or Family Leave
Employer Response to Request for Parental or Medical Leave
Certification Health Care Provider - Employee
Certification Health Care Provider - Family Members
Family and Medical Leave Act Information Sheet

PERSONAL LEAVE

Number 14.3

Effective Date: March 1, 1996

Subject: **PERSONAL LEAVE**

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this policy is to establish the policies and procedures by which a classified employee shall receive time off from work for personal use.

It is the policy of the State to provide an incentive for non-management bargaining unit employees to earn personal leave days for not using sick leave, and to provide personal leave days to supervisory/managerial employees to additionally compensate them for their supervisory status.

DEFINITION

ACCRUAL RATE - is the number of hours the employee shall accrue per fiscal quarter or fiscal year.

GENERAL GUIDELINES

The Personal Leave Articles of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) must be adhered to when administering personal leave.

Personal leave accrual and eligibility shall be pro-rated, as appropriate, for permanent part-time employees.

Temporary employees and individuals performing services under contract do not earn personal leave.

NON-MANAGEMENT EMPLOYEES

Non-management employees shall earn ten (10) hours of personal leave per fiscal quarter providing:

- they do not use more than four (4) hours sick leave;
- they are not on a leave of absence without pay (except for Workers' Compensation leave of absence);
- they are not suspended without pay.

The fiscal quarters begin on July 6, October 6, January 6, and April 6. Non-management employees may earn up to five (5) personal leave days per fiscal year.

If employees change bargaining units during a fiscal year, they will not lose their personal leave and may use them during that fiscal year. However, if the credits were earned during the last quarter of the fiscal year, they will have until the end of the succeeding quarter to use them.

Upon completion of original probation, employees shall be eligible for any personal leave credits earned during the probationary period. Accruals for supervisory employees will be based upon the initial date of hire into the supervisory position.

Non-management personal leave is not paid off at termination of employment. However, employees who are separated due to a Reduction-in-Force will have their personal leave restored if they are re-hired as a result of their mandatory reemployment rights.

SUPERVISORY EMPLOYEES

Supervisory employees shall earn personal leave based upon years of continuous service, as of July 1st of each year, as follows:

YEARS OF SERVICE	DAYS EARNED
less than 5 years	3 days
5 - 10	4 days
10 - 15	5 days
15+	8 days

Personal leave is credited accordingly to employees leave balance as of the first full pay period in July of every year.

Supervisors who are in original probationary status cannot receive or use personal leave until they successfully complete probation. Personal leave will be prorated based on the employee's date of hire.

At the end of the fiscal year, if, through no fault of employees, they cannot use their accrued personal leave by the end of the fiscal year, they shall be paid off in cash at the prevailing straight time rates. Otherwise, unused personal leave shall not be compensable in cash; shall not be convertible to other forms of leave; nor may it be accumulated from accrual year to accrual year.

Employees who are designated as supervisors and become members of the bargaining unit during any portion of the fiscal year shall be credited with personal leave on the following basis: First quarter - 100%
Second quarter - 75%
Third quarter - 50%
Fourth quarter - 25%

Employees who leave a supervisory bargaining unit position to accept another position in State service shall be permitted to retain unused personal leave days on the following basis, prorated for the quarter in which they leave:

First quarter - 25%
Second quarter - 50%
Third quarter - 75%
Fourth quarter - 100%

Supervisory personal leave is paid off at termination of employment, at management's discretion.

USE OF LEAVE

Employees should take personal leave at times that are mutually agreed upon by employees and their supervisors. Leave must be requested in advance by employees and is subject to approval by the appointing authority (or designee).

Employees who receive prorated personal leave time in the fourth quarter may carry it forward and use it in the first quarter of the following fiscal year.

FIRE AND RESCUE DUTY

Number 14.4

Effective Date: March 1, 1996

Subject: **FIRE AND RESCUE DUTY**

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It is the policy of the State of Vermont to support communities by allowing employees, who are members of municipal fire and/or rescue teams, release time from work, without loss of pay or benefits. This policy outlines the procedures by which employees shall receive release time for fire and rescue duty.

GENERAL GUIDELINES

The Fire and Rescue Duty Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) must be adhered to when administering this leave.

Subject to the operating needs of an agency or department, employees who are members of municipal fire and/or rescue teams may be granted leave without loss of pay or benefits under the following conditions:

1. Employees must be members of a municipal fire and/or rescue team that is reachable within a thirty (30) minute drive from their work location.
2. Employees must be answering emergency alarms or calls, not drills, within their municipality.
3. If the call is outside the fire or rescue team's municipality, it must be part of a mutual aid call.
4. The call may be for a multiple alarm, or a fire for which employees are reasonably available and are called.

Employees called to respond must notify their appointing authority to the extent practicable.

Employees who are covered by this policy shall be entitled to carry a pager while on duty.

CIVIC DUTY

Number 14.5

Effective Date: March 1, 1996

Subject: **CIVIC DUTY**

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It shall be the policy of the State to support communities by allowing employees time off for the performance of their civic responsibilities.

GENERAL GUIDELINES

Employees elected to the following offices may be granted up to three (3) days off per fiscal year, without loss of pay, if they serve in the following roles in their community:

Select Board
Board of Trustee
Board of Aldermen
Board of Civil Authority
School Board

Subject to the operating needs of the agency/department, this leave will be granted when official business pertaining to the employee's elected office cannot be accomplished outside of the employee's normal working hours.

Employees shall give their supervisors as much advance notice as possible when requesting civic duty leave.

COURT AND JURY DUTY/ WITNESS FEES

Number 14.6

Effective Date: March 1, 1996

Subject: **COURT AND JURY DUTY/ WITNESS FEES**

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

It shall be the policy of the State of Vermont to encourage employees to recognize and perform their civic responsibilities.

The purpose of this policy is to establish the State's policies and practices which provide for a classified employee to be absent from work for court and jury duty, and to provide procedures for the acceptance of related fees by State employees.

GENERAL GUIDELINES

The Court and Jury Duty Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) must be adhered to when implementing this policy.

Classified employees who are summoned for court or jury duty shall be excused from work for the time necessary to perform that duty when they furnish timely notice of subpoena or summons to their supervisors. Employees who attend court in connection with their official duties shall not be considered absent from work.

The State expects its employees to serve for jury duty when summoned and will not request that employees be excused from serving except in unusual circumstances which jeopardize service to the public.

The contract allows employees to use accrued leave time for jury duty, however, it is not necessary as employees who serve on jury duty will continue to receive their State wages. State employees serving on jury duty will not receive jury pay from the court.

Employees are entitled to keep their court pay if they use accrued annual leave, personal leave, or compensatory time off for their absence due to court duty.

Employees who request accrued annual leave or compensatory time off to appear as defendants or party-plaintiff in civil or criminal actions shall be granted such time off.

It is the responsibility of employees to notify their supervisors as soon as they are called for court or jury duty.

WITNESS FEES

32 VSA 1559 prescribes when and if State employees may receive witness fees for participation in civil or criminal proceedings. The statute is as follows:

1559. Compensation of law enforcement officers for attendance at proceedings.

(a) No full time State police officer, municipal police officer, municipal police officer, game warden or other State employee shall be paid or accept any compensation as a witness in any civil or criminal proceeding to which the State is a party.

(b) In any civil proceeding in the State in which a full time State police officer, municipal police officer, game warden or other State employee is subpoenaed as a witness either because of his expert knowledge with regard to his employment area or because of his past official actions the fees due him as a witness shall be paid by the party summoning the witness to the clerk of the court to be paid to the State.

(c) These persons shall be compensated for such attendance by their employer according to the terms of their employment.

Subparagraph (a) is applicable only in cases where the State is a party (i.e., plaintiff or defendant). In such cases, State employees may not accept payment in the form of witness fees, or other compensation for their participation. These employees may, however, be entitled to reimbursement for mileage under the law or contract.

Subparagraph (b) is applicable to civil cases only where the State is not a party and only applies to subpoenaed participation. This section is also limited to circumstances where State employees' participation is needed because of their expertise in their employment area, or because such employees have taken some past official action which is the reason for participation. In these instances, the person(s) summoning the employees should give the witness fee check (and a copy of the subpoena) to the clerk of the applicable court. Employees should not accept the witness fee check in these cases, nor attempt to sign the check over to the court themselves. Employees should, however, accept service of the subpoena. These employees may be eligible under the law or contract for reimbursement for mileage.

Subparagraph (c) is self-explanatory. Employees subpoenaed in the above-referenced types of cases should be compensated according to the terms of the contract which applies to their bargaining unit.

MILITARY LEAVE

Number 14.7

Effective Date: March 1, 1996

Revised Date: March 23, 2006

Subject: **MILITARY LEAVE**

Applicable To: All classified, exempt and temporary employees with the Executive Branch of the State of Vermont

Issued By: Department of Human Resources

Approved By: Michael K. Smith, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The State of Vermont is committed to protecting the job rights and benefits of employees who are absent on military leave. This policy provides permanent employees with the opportunity to fulfill their military obligations without penalty.

In accordance with federal and state law, it is the State of Vermont's policy that no employee will be subjected to any form of discrimination on the basis of that person's membership in or obligation to perform service for any of the Uniformed Services of the United States. Specifically, no person will be denied employment, reemployment, retention in employment, promotion or other benefit of employment on the basis of such membership or service. Furthermore, no person will be subjected to retaliation or adverse employment action because such person has exercised his or her rights under this policy.

The Military Leave article of the current Agreements between the State of Vermont and the Vermont State Employee's Association, Inc., as applicable, must be observed in administering this policy. The contract provision does not apply to temporary employees.

If any employee believes that he or she has been subjected to discrimination in violation of this policy, the employee should immediately contact his or her Personnel Officer, or the Labor Relations Division of the Department of Human Resources. In addition, the U.S. Department of Labor, Veterans' Employment and Training Service (VETS) is authorized to investigate and resolve complaints of USERRA violations. VETS can be reached at 1-866-4-USA-DOL or at http://www.dol.gov/vets.

DEFINITIONS

Federal Fiscal Year: October 1 to September 30.

Reasonable Effort: means actions, including training provided by an employer, that do not place an undue hardship on the employer.

Service in the Uniformed Services: means the performance of duty of a voluntary or involuntary basis in a uniformed service including: active duty; active and inactive duty for training; National Guard service under federal authority; initial active duty for training; examination to determine fitness for duty; funeral honors duty by National Guard or Reserve members; and certain duties performed by National Disaster Medical System employees.

Uniformed Services: consists of the Army, Navy, Marine Corps, Air Force, or Coast Guard; Army, Naval, Air Force or Coast Guard Reserves; Army or Air National Guard; Commissioned Corps of the Public Health Service; and any other category of persons designated by the President in time of war or national emergency.

USERRA: Uniformed Services Employment and Reemployment Rights Act. USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System. USERRA also prohibits employers from discriminating against past and present members of the uniformed services, and applicants to the uniformed services.

TYPES OF LEAVE

Inactive Duty Leave: Employees who are members of the Reserves or National Guard shall be granted leave without pay for scheduled inactive duty training or service (IDT), or equivalent, unless they elect to use accrued annual, personal or compensatory time off to cover such absences from work.

Short Term Military Leave: Eligible employees who are members of the Reserves or National Guard shall be allowed military leave with pay, at their regular base salary (prorated as appropriate), for up to a maximum of eleven (11) work days, scheduled by military authority, in any Federal Fiscal Year, for any authorized active duty training or service. All benefits will continue during an employee's temporary military leave.

Extended Military Leave: Eligible employees who are members of the Reserves or National Guard shall be granted a military leave of absence without pay for any authorized active duty, or active duty for training or other similar military service in excess of eleven (11) work days in any Federal Fiscal Year, for a period of up to five (5) years. Employees who are inducted into the Armed Forces by draft or voluntary enlistment for active service shall also be granted a military leave of absence without pay for a period of up to five (5) years. In accordance with USERRA, periods of service

for certain types of military duty may be excluded from counting toward the five (5) year period.

PROCEDURES FOR USE OF MILITARY LEAVE

1. The employee will provide his or her immediate supervisor with notice that the employee will be engaging in military service, including, where feasible, a copy of the orders directing the military duty, unless the employee is prevented from doing so by military necessity. Employees are requested to provide such notice within thirty (30) days of active military service. Failure to provide adequate notice may render the employee ineligible for the rights and benefits described in this policy, unless the employee can show it would have been precluded by military necessity, or otherwise impossible or unreasonable.

2. To request a temporary or extended military leave of absence, the employee should, unless prevented from doing so by military necessity, submit an Employee's Active Duty Leave Notification Letter (see Attachment A) to his or her Personnel Officer.

3. The Personnel Officer will review and sign the *Employee's Active Duty Leave Notification Letter*, provide necessary information regarding the continuation of health insurance coverage, generate other applicable documents, and process necessary personnel actions.

4. Employees on temporary or extended military leave may, at their option, use any or all accrued paid vacation, compensatory time or personal leave during their absence.

5. When the employee intends to return to work, he or she must make application for reemployment to the Personnel Officer as outlined in the Reporting Back to Work section below.

6. If the employee does not return to work, the supervisor must notify the Personnel Officer so that appropriate action may be taken.

BENEFITS

If an employee is absent from work due to military service, benefits will continue as follows:

1. An employee on extended unpaid military leave may elect to continue group health insurance coverage for the employee and covered dependents. Continuation of coverage shall be at the normal 80/20% premium share rate and may continue until the employee's return from active duty.

2. Any group term life/AD&D insurance provided by the State of Vermont will continue for twelve (12) months from the beginning of military leave of absence with premiums fully paid by the State.

3. Any group long-term disability insurance provided by the State of Vermont will continue for ninety (90) days from the beginning of military leave of absence with premiums fully paid by the State.

4. Employees do not accrue annual, personal, or sick leave while on unpaid military leave of absence status. However, employees on extended military leave who elect to use accrued leave balances such that they qualify for leave accruals in accordance with the collective bargaining agreements, and/or leave accrual policies, will accrue leave as appropriate.

5. With respect to the State of Vermont's retirement plan, upon reemployment, employees who have taken military leave will be credited for purposes of vesting with the time spent in military service and will be treated as not having incurred a break in service. Since the employer must report all unpaid leaves of absence to the Retirement Office, upon return from military leave, the employee must contact the Retirement Office to ensure that the employee's retirement account receives credit for the time spent in military service. Immediately upon reemployment, the employee may elect to make any or all employee contributions that the employee would have been eligible to make had the employee's employment not been interrupted by military service. Such contributions must be made within a period that begins with the employee's reemployment and that is not greater in duration than three times the length of the employee's military service, with the payment period not to exceed five years. The State will make any required contributions should the employee elect to exercise this option.

REEMPLOYMENT

Upon an employee's prompt application for reemployment (as defined below), an employee will be reinstated to employment in the following manner depending upon the length of the employee's military service:

Military Service of 1 to 90 days – • In a position the employee would have held had his or her employment not been interrupted by military service, provided the employee is qualified for the position, or can become qualified after reasonable effort by the State of Vermont; or
• If found not qualified for such position after reasonable effort by the State of Vermont to qualify the employee, in the position in which the employee had been employed prior to military service.
• In a position that is the nearest approximation to the positions described above (in that order) which the person is able to perform, with full seniority, if the employee cannot become qualified for either position described above even after reasonable effort by the State of Vermont.

Military Service of 91 days or more –

• In a position that the employee would have attained if employment had not been interrupted by military service or a position of like seniority, status, and pay, the duties of

which the employee is qualified to perform; or
• If proved not qualified after reasonable effort by the State of Vermont, in the position the employee left, or a position of like seniority, status and pay, the duties of which the employee is qualified to perform.
• In a position that is the nearest approximation to the positions described above (in that order) which the person is able to perform, with full seniority, if the employee cannot become qualified for either position described above even after reasonable effort by the State of Vermont.

Employee with a service-connected disability – If after reasonable accommodation efforts by the employer, an employee with a service-connected disability is not qualified for employment in the position he or she would have attained or in the position that he or she left, the employee will be employed in
• any other position of equivalent seniority, status and pay for which the employee is qualified or could become qualified with reasonable effort by the State of Vermont; or
• If no such position exists, in the nearest approximation consistent with the circumstances of the employee's situation.

REPORTING BACK TO WORK

An employee who has engaged in military service must, in order to be entitled to the reemployment rights set forth above, request reemployment according to the following schedule. The employee's request may be written or verbal.

1. If service is for 1 to 30 days (or for the purpose of taking an examination to determine fitness for service) – the employee must report for work at the beginning of the first full regularly scheduled working period on the first calendar day following completion of service and the expiration of eight hours after a time for safe transportation back to the employee's residence.

2. If service is for 31 days to180 days – the employee should submit an *Employee's Return from Active Duty Notification Letter* for reemployment (see Attachment B for sample letter) to his or her Personnel Officer no later than 14 days following the completion of service.

3. If service for 181 or more days – the employee should submit an *Employee's Return from Active Duty Notification Letter* for reemployment to his or her Personnel Officer no later than ninety (90) days following the completion of service.

4. If the employee is hospitalized or convalescing from a service-connected injury – the employee should submit an *Employee's Return from Active Duty Notification Letter* for reemployment to his or her Personnel Officer no later than two (2) years following completion of service.

EXCEPTIONS TO REEMPLOYMENT

An employee is not entitled to reinstatement as described above if any of the following conditions exist:

1. The employee fails to apply for reemployment in a timely manner.

2. The State of Vermont's circumstances have so changed as to make reemployment impossible or unreasonable.

3. The employee's employment prior to the military service was merely for a brief, non-recurrent period and there was no reasonable expectation that the employment would have continued indefinitely or for a significant period.

4. The employee did not receive an honorable discharge from military service.

GENERAL BENEFITS UPON REEMPLOYMENT

Employees who are reemployed following military leave will receive seniority and other benefits determined by seniority that the employee had at the beginning of the military leave, plus any additional seniority and benefits the employee would have attained with reasonable certainty had the individual remained continuously employed. However, employees will not accrue leave benefits while on an unpaid leave of absence. In addition, an employee's time spent on active military duty will be counted toward his or her eligibility for Family and Medical Leave Act leave once he or she returns to his or her job with the State of Vermont.

DOCUMENTATION

An employee's manager will, upon the employee's reapplication for employment, request that the employee provide the State of Vermont with military discharge documentation that establishes the timeliness of the application for reemployment and length and character of the employee's military service.

HOLIDAYS

Number 14.8

Effective Date: March 1, 1996
Revised Date: May 15, 2002

Subject: **HOLIDAYS**

Applicable To: All classified employees, as well as exempt, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE

The purpose of this policy is to designate State holidays for which classified employees are entitled to receive compensation.

GENERAL INFORMATION

Employees are generally granted time off with pay on legal holidays as listed below. Employees in certain jobs may be required to work on some holidays. If so, they may be compensated with equivalent time off or cash payment as provided in the Observance of Holidays Article in the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA). In addition, the contract covers all other conditions of employment related to legal holidays, such as decisions regarding the closing or opening of State offices on a holiday, and the observance of Floating Holidays.

Title 1 VSA § 371 establishes the following legal holidays:

New Year's Day - January 1
Martin Luther King JR's Birthday – third Monday in January
Washington's Birthday - third Monday in February
Town Meeting Day - first Tuesday in March
Memorial Day - May 30
Independence Day - July 4
Bennington Battle Day - August 16
Labor Day - first Monday in September
Veterans' Day - November 11

Thanksgiving Day - fourth Thursday in November

Christmas Day - December 25

The following is a floating holiday.

Columbus Day - second Monday in October

State offices remain open for business on a "floating" holiday. Employees who are assigned to work on a floating holiday, or who have that day as a regularly scheduled day off, will receive compensatory time off at straight time rates for eight (8) hours, to be used at a later date. Employees who wish to take the floating holiday off must make a request to their supervisors in advance of the holiday.

An employee who wishes to take an earned floating holiday at a later date must make this request with at least thirty (30) days' advance notice to the supervisor, and the supervisor must have approved the leave. However, if the time off is agreed to thirty (30) days in advance and then the employee is required to work on the day (s)he planned to be on leave, the employee will be paid for that day as if it were a designated time-and-one-half rate holiday.

All State departments, agencies and offices observe any legal holiday falling on a Saturday on the preceding Friday, and any legal holiday falling on a Sunday on the following Monday.

The following individuals will not receive pay for a holiday.

- Employees not on the payroll due to disciplinary suspension
- Employees who are absent without authorization
- Employees who are on an unpaid leave of absence for any portion of their scheduled workday immediately preceding or following a holiday.

This policy does not apply to temporary employees.

MISCELLANEOUS LEAVE

Number 14.9

Effective Date:	March 1, 1996
Subject:	**MISCELLANEOUS LEAVE**
Revised Date:	July 1, 1999
Applicable To:	All classified employees with the Executive Branch of the State of Vermont.
Issued By:	Department of Personnel
Approved By:	Kathleen C. Hoyt, Secretary of Administration

PURPOSE

The purpose of this policy is to establish the procedures by which classified employees shall receive time off from work, without charge to leave, for miscellaneous reasons.

EXAMINATIONS AND INTERVIEWING

It is the policy of the State of Vermont to allow probational and/or permanent status classified State employees reasonable release time from work for taking examinations and/or interviews for other positions in Vermont State Government. Employees are not required to charge this time off to annual, personal, or compensatory leave or take unpaid leave.

Employees must request leave from their supervisors in advance. The granting of leave shall be subject to the operating needs of the Department as determined solely by the appointing authority.

Employees shall neither receive mileage nor other expense reimbursement for traveling to an examination site, nor for going to job interviews.

BLOOD DONATIONS

It is the policy of the State of Vermont to allow classified State employees reasonable release time from work to donate blood at local blood drawings sponsored by the Red Cross.

Employees are not required to charge this time off to annual, personal, or compensatory leave or off-payroll status.

Employees must request leave from their supervisors in advance. This granting of this leave shall be subject to the operating needs of the department as determined solely by the appointing authority.

VERMONT STATE EMPLOYEES TIME OFF

Subject to the efficient conduct of State business which shall prevail in any instance of conflict, permission for reasonable time off during normal working hours without loss of pay and without charge to accrued benefits shall not be unreasonably withheld for VSEA Officers and Stewards to attend VSEA-sponsored meetings. Employees must secure advance permission from appropriate supervisors and shall give the State as much prior notice of any such meeting as possible. Article 3 of each bargaining unit contract contains specific guidance regarding this type of leave. Employees must report this type of leave on their time reports by entering code 27 (Administrative Leave with pay).

Signed by Kathleen C. Hoyt, August 3, 1999

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Approved, Secretary of Administration

Section 15

TRAINING AND CAREER DEVELOPMENT OPPORTUNITIES

Number 15.0

Effective Date: March 1, 1996

Subject: TRAINING AND CAREER DEVELOPMENT OPPORTUNITIES

Supersedes Agency of Administration Bulletin No. 48.23 Dated April 15, 1968 <

Applicable To: All classified employees of the Executive Branch with the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

As knowledge and skill requirements in all areas of employment are constantly changing and expanding, it is important for the State of Vermont to develop and support comprehensive training programs for its employees to provide them with the opportunity for career training and development, in order that services rendered to the State will be more efficient and effective.

The Training Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) provide for non-management and supervisory training programs, to include courses, conferences, and seminars for State employees, as outlined below. The contract must be adhered to when implementing this policy.

GENERAL GUIDELINES

Many agencies and departments conduct training courses that cover a variety of topics and purposes. Subject to agency and department budget limitations, intra-agency training programs may be administered and controlled by regulations established within the agency or department.

Upon approval from the appointing authority, or designee, agency/department employees may attend training programs outside of State government if the program is related to agency functions and agency funding is available for training costs.

Employees with recall rights under the Reduction In Force Article of the current Agreements between the State and the VSEA may register to participate in Vermont Learning Center training programs without charge to the employees.

DEPARTMENT OF PERSONNEL SPONSORED TRAINING

Management Training: The State of Vermont through the Department of Personnel offers the Vermont Certified Public Manager program (VCPM). VCPM is a training program that includes core courses on management skills, organizational development, and specifics on working within the State Government system. Participants take seminars, create individualized development plans, implement application projects, and provide consultation services to other State managers. VCPM is designed for current managers and individuals who may be moving into management positions in the future. Enrollment requires the approval of the employee's supervisor. Registration forms for VCPM can be found in the *Vermont Learning Center Course Catalog*.

Supervisory Training: This is a series of core seminars and workshops for supervisors which covers the principles of supervision, performance management, and supervising within the State-VSEA contract. Current supervisors and employees who aspire to supervisory positions are welcome. Enrollment requires the approval of the employee's supervisor. Registration forms for Supervisory Training can be found in the *Vermont Learning Center Course Catalog*.

Support Staff Training: The Vermont Professional Office Workers program (POW) is a training program for office support staff which is designed to increase an individual's personal and professional development. Enrollment requires the approval of the employee's supervisor. Registration forms for POW Training can be found in the *Vermont Learning Center Course Catalog*.

Other Services: In addition to the core courses listed above, the Vermont Learning Center provides the following services:

- Open enrollment Classes
- Organizational Consulting
- Total Quality Management Implementation
- Career Development

For more information on any of these services, contact the Vermont Learning Center at 241-1114.

EDUCATIONAL LEAVE

Number 15.1

Effective Date: March 1, 1996
Subject: **EDUCATIONAL LEAVE**
Revised Date: January 1, 2000

Applicable To: All classified employees with the Executive Branch with the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of educational leave is to allow an employee to pursue training directly related to his or her employment which will improve the employee's competence and ability to serve in State government. The training must be of direct value to the State as finally determined by the Commissioner of Personnel. The cost of training courses required by the employer are normally paid for by the State. In certain cases, Departments may elect to pay for the tuition or registration costs of non-job required employee coursework, such as seminars. These cases are separate from the formal tuition reimbursement programs administered by the State taken during working hours or on the employee's own time.

DEFINITIONS

EDUCATIONAL LEAVE - is an employee's absence from duty to attend a formal course of study.

GENERAL GUIDELINES

The Educational Leave and Career Development Article of the current Agreements between the State of Vermont and the Vermont State Employees' Association, Inc. provides further clarification regarding educational leave, and must be adhered to.

Requests for educational leave (with or without pay) must be made and approved <u>prior to</u> enrollment in a course of study. Once the supervisor approves the request, it must then be approved by the appointing authority, and then by the Commissioner of Personnel (or designee). Many agencies and departments

require that the request be routed through the agency/department personnel officer and/or training officer prior to final approval by the appointing authority.

Employees must pass the course and agree to continue employment with the State for one calendar year for each academic year of paid educational leave granted to them. If an employee chooses to leave before one year, the employee must reimburse the State for all funds received, including salary for release time. This reimbursement will be prorated according to the unexpired period of obligation.

Appointing authorities may authorize release time without charge to leave for employees who wish to take partial-day absences (not to exceed 8 hours per week) and short absences of less than a full pay period to attend non-job required course work. These courses must be directly related to an employee's current job duties, or consistent with a career development plan approved in advance by the appointing authority and the Commissioner of Personnel.

Time spent on educational leave is counted in determining the rate of annual and sick leave accrual and reduction-in-force rights. However, no leave benefits shall be accrued or credited to employees during the period of leave.

Requests for educational leave must include the following information:

- Course title.
- Instructional agency.
- Course location.
- Course cost.
- Course schedule (hours per day, days per week, number of weeks).
- Description of course content.

Employees who are on paid educational leave <u>may not</u> receive tuition reimbursement under either the contractural or Managerial/Confidential Tuition Reimbursement Programs.

REIMBURSEMENT OF TUITION OR REGISTRATION COSTS

Departments may, at their sole discretion, elect to reimburse employees for some or all of the cost of tuition or registration for non-job required courses. (Such reimbursement is separate and apart from the formal Tuition Reimbursement Programs administered by the State.) Requests for reimbursement of tuition or registration charges will be considered only when the following conditions are met:

- for job-related courses which are not required by the employer; and
- for courses which have been approved, in advance, by the Department; and

- for courses that the employee passes; and
- the employee meets any other requirements or restrictions the Department deems appropriate.

Upon successful completion of a course, a Request for Reimbursement for Expenses (Form AAF-8) must be completed and submitted to the employer through the normal expense reimbursement process. Receipts and proof of satisfactory completion of the course must be attached to the Form AAF-8. Reimbursement to the employee will be made from the appropriate funding source of the employing agency. Reimbursement for up to $5,250 per year for courses is not taxable to the employee (26 CR 1.127.2).

Departments wishing to pay any approved tuition/registration costs directly to the provider, in advance of the course, should contact the Personnel Department before the course begins to determine how such payments can be processed and what documentation will be required. Employees who do not successfully complete such pre-paid courses must reimburse the State for the applicable tuition/registration costs.

EDUCATIONAL LEAVE WITHOUT PAY

Educational leave without pay may be granted to a permanent status classified employee to encourage his/her self development and job value to the State. Upon the request of the employee and with the recommendation of the appointing authority, an educational leave without pay may be authorized for a period of up to two years by the Commissioner of Personnel when a desired course of study is likely to improve the quality of the employee's service to the State.

1. An employee granted such leave will not be obligated to continue employment with the State of Vermont.
2. Neither sick nor annual leave shall be accrued during the periods while the employee is on educational leave. Such period shall be counted in determining the rate of annual and sick leave accural and reduction-in-force rights.
3. An employee granted leave for educational purposes may elect to receive a cash payment for accrued annual leave upon entering leave status, or s/he may retain leave credits for use upon return to active employment.
4. An employee who does not return to work within thirty (30) days of completion of the authorized course of studies may be terminated from State service.

Signed By Kathleen C. Hoyt, January 3, 2000

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Approved, Secretary of Administration

TUITION REIMBURSEMENT

Number 15.2

Effective Date: March 1, 1996
Subject: **TUITION REIMBURSEMENT**
Revised Date: October, 1, 1999

Applicable To: All permanent status classified employees in non-management and supervisory bargaining units, as well as exempt, confidential and managerial employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The Tuition Reimbursement Program was established in 1986, in conjunction with the Vermont State Employees' Association, Inc. (VSEA), under the Collective Bargaining Agreements to provide financial support to State employees who wish to further their education for career development and job advancement.

The program provides financial assistance for post secondary and/or graduate level courses which are directly related to an employee's current job or other career related positions in State service. Courses that are required as part of an employee's degree program may also be reimbursed if the degree meets the same criteria.

Managers, Confidential and Exempt employees are covered by a separate tuition reimbursement program not governed by the labor contract.

GENERAL INFORMATION

The provisions of the Tuition Reimbursement articles of the contract must be adhered to. Courses must be post-secondary and/or graduate level courses taken at a properly accredited educational institution.

Non-credit courses, classes, or seminars which are job related, but not mandatory or required by the employee's department may also be approved, at the discretion of the Commissioner of Personnel (or designee).

Mandatory courses that are required by an employee's agency/department are not covered under this program.

Money is allocated to the Tuition Reimbursement funds through contract negotiations and the Pay Act. Reimbursement will be made for applications submitted during the appropriate time period. For the contractural tuition reimbursement programs, one-half of the available fund money for each fiscal year will be made available for courses that begin between July 1 and December 31, and the remaining half will be available for courses that begin between January 1 and June 30.

ELIGIBILITY

Classified employees in the Non-Management and Supervisory Bargaining Units who have completed original probation are eligible for tuition reimbursement. Managerial, confidential and exempt employees are also eligible under a separate funding source, after completion of original probation. An employee must have a written career plan approved by the appointing authority and the Commissioner of Personnel. Employees who are on paid educational leave may not receive tuition reimbursement.

APPLICATION PROCESS

The employee must complete a Tuition Reimbursement Application Form (Attachment A) and submit it for approval first to the employing department and then to the Department of Personnel, prior to the start of the course.

The employing department will determine what, if any, amount of its own funds will be allocated to the employee, and then forward the application to the Department of Personnel for processing.

The application shall be submitted to the Department of Personnel and postmarked during the appropriate time period for consideration. For courses beginning between January 1st and June 30th, applications must be submitted by U.S. mail and be postmarked no earlier than November 24th and no later than December 7th. For courses beginning between July 1st and December 31st, , applications must be submitted by U.S. mail and be postmarked no earlier than May 25th and no later than June 7th. Applications will indicate which course is the employee's first priority and which course is the second priority. If there are insufficient funds to cover all of the first priority course applications, all timely submitted applications will be combined and one representative each from the State and the VSEA will draw out applications until all of the available funds for that semester are committed for first priority course tuition reimbursement. If all first priority courses are funded, the above drawing process will be used to determine which second priority courses will receive tuition assistance.

REIMBURSEMENT

The employee must provide proof of passing grades or repay the funds within a three month period. The maximum reimbursement to the employee cannot exceed 80% of the actual out-of-pocket costs for tuition only, up to $250 per credit for Non-Management bargaining unit employees, and $350 per credit for Supervisory Bargaining unit employees, managerial, confidential, and exempt employees. Books, fees, etc. are **not** covered under this reimbursement program and should not be included in the tuition amount. When combined with other sources of reimbursement (federal grants, department contribution, etc.) the maximum amount of reimbursement to an employee cannot exceed 90% of the total costs for tuition, up to the $250 (or $350) limit.

An employee may not be reimbursed for more than twelve (12) college credits per fiscal year, and shall not be reimbursed for more than two (2) courses, (for a maximum of eight (8) credits) within a six (6) month period (July - December, January - June). Subject to availability of funds, reimbursement for more than 12 credits in a fiscal year may be made at the discretion of the State. The employee must make such request in writing in advance of taking the courses. Monies not spent for courses beginning July 1st through December 31st shall be available for tuition reimbursement for courses beginning January 1st through June 30th.

The Tuition Reimbursement Article of the current Agreements between the State of Vermont and the VSEA provides further clarification regarding tuition reimbursement.

DIRECT PAYMENTS TO EDUCATIONAL INSTITUTION

Tuition Reimbursement payments are normally in the form of direct payments to the educational institution. If an employee drops a course for which direct payment was made, or does not attain a passing grade, the Tuition Reimbursement Fund must be repaid in full by the employee. The Department of Personnel will initiate action to collect the money if the employee fails to repay the Department of Personnel, or to arrange for repayment within three (3) months. The employee will be barred from future participation in the program until the State has been repaid in full.

For further information, contact the Business Manager of the Department of Personnel, 802-828-3605.

EMPLOYEES WHO LEAVE STATE STATUS

Employees who are in Reduction-in-Force (RIF) status and were approved for tuition reimbursement funds prior to their RIF are permitted to complete their course of study and obtain reimbursement in certain circumstances. Reimbursement will be paid to employees if they are re-employed within a period

of four (4) months. If pre-payment to the school was made, no re-payment to the employee is necessary. Employees who voluntarily terminate after pre-payment to a school has been made are expected to make repayment to the Tuition Reimbursement Fund. Arrangements for repayment must be made directly with the Department of Personnel.

Signed by Kathleen C. Hoyt, October 25, 1999

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Approved, Secretary of Administration

ATTACHMENT A

TUITION REIMBURSEMENT APPLICATION / INSTRUCTIONS

ATTACHMENT B

DEPARTMENT OF PERSONNEL TUITION REIMBURSEMENT CAREER PLAN

Go to Virtual Library for tuition forms

Section 16

VERMONT STATE EMPLOYEES' ASSOCIATION, INC.

Number 16.0

Effective Date: March 1, 1996

Subject: VERMONT STATE EMPLOYEES' ASSOCIATION, INC.

Applicable to: All classified non-management, supervisory, corrections, and State Police bargaining unit employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

GENERAL INFORMATION

The State of Vermont recognizes the Vermont State Employees' Association, Inc. (VSEA) as the exclusive representative of the Vermont State employees in the Non-Management, Supervisory, Corrections, and Vermont State Police bargaining units.

The VSEA is a non-profit, membership organization governed by the members whose goal is to improve wages and working conditions for all Vermont State employees. VSEA. members have input into and a final vote on the contract that covers all State employees. Dues are deducted from a member's semi monthly pay check.

Services Offered to Members:

- The VSEA. staff will represent its members through the complaint and grievance process should an employee experience a problem on the job.
- Members receive news of current events that affect State employees through the newspaper *"THE VOICE"* and weekly *"UPDATES".*
- Accidental Death & Dismemberment Insurance, Disability Insurance, and Car Insurance are available to members.
- Special discounts are also offered to members through various Vermont establishments.

For more information, contact the VSEA, P.O. Box 518, 155 State Street, Montpelier, VT 05601, Telephone 802-223-5247.

LABOR/MANAGEMENT COMMITTEES

Number 16.1

Effective Date: March 1, 1996

Subject: LABOR/MANAGEMENT COMMITTEES

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

GENERAL INFORMATION

Labor management committees, consisting of equal representation from the bargaining units represented by the Vermont State Employees' Association, Inc., (VSEA) and from management, may be formed to discuss methods of improving labor relations, or to discuss problems that may have an impact on the conditions of employment. These committees will not be used to discuss pending grievances or for collective bargaining purposes.

Agencies, departments, facilities or local work sites may establish labor management committees with equal number of participants selected by the appointing authority and the VSEA.

Statewide labor management committees will consist of not more than five members representing the bargaining units and not more than five members representing the State. The following Statewide labor management committees exist: Caseload/Workload Distribution Equity
Child Care
Health and Safety
Smoking
Training

Please refer to the Labor Management Committee Article of the current Agreements between the State of Vermont and the VSEA, or contact the Department of Personnel Employee Relations Division, 828-3454, for more information.

CONTRACTS

Number 16.2

Effective Date: March 1, 1996

Subject: CONTRACTS

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

GENERAL INFORMATION

The Legislature of the State of Vermont enacted legislation that provides for collective bargaining between the State of Vermont and its employees. The State of Vermont recognizes the Vermont State Employees' Association, Inc. (VSEA) as the exclusive representative of its employees in the Non-Management, Supervisory, Corrections and State Police bargaining units.

Matters that are appropriate for collective bargaining, to the extent that they are not prescribed or controlled by statute, include but are not limited to the following:

- Wages, salaries, benefits and reimbursement practices;
- Minimum hours per week;
- Working conditions;
- Overtime compensation and related matters;
- Leave compensation and related matters;
- Reduction-in-force procedures;
- Grievance procedures;
- Terms of coverage and amount of employee financial participation in insurance programs; and
- Rules and regulations for personnel administration.

Collective bargaining agreements will be for a maximum of two (2) years. The current agreements, effective July 1, 1994 through June 30, 1996, are:

- Non-Management Bargaining Unit
- Supervisory Bargaining Unit
- Corrections Bargaining Unit
- State Police Bargaining Unit

Copies of the current contracts may be obtained from Agency/Department Personnel Officers or from the Department of Personnel Employee Relations Division.

Section 17

EMPLOYMENT RELATED INVESTIGATIONS

Number 17.0

Effective Date: March 1, 1996

Subject: EMPLOYMENT RELATED INVESTIGATIONS

Applicable To: All classified employees, as well as exempt and appointed, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE

The purpose of this policy is to establish the framework for conducting employment investigations.

Employment investigations may include, but are not limited to the following: sexual harassment complaints; other discrimination claims; other allegations of employee misconduct, such as cheating on expense accounts, filing false time reports, etc.

COLLECTIVE BARGAINING FRAMEWORK

The Vermont Labor Relations Board (VLRB) has held that the just cause disciplinary standard does not create any implicit requirements for investigation. The current collective bargaining Agreements between the State and Vermont State Employees' Association, Inc. (VSEA) contain limited requirements which govern employer investigations. Therefore, the employer is generally free to conduct an investigation in the manner considered to be appropriate for the circumstances, but there are some provisions of the agreement which apply, as follows:

A. **VSEA Warning (for bargaining unit employees only**:

Article 14, Section 7 of the Non-Management Unit Agreement[(1)] outlines the circumstances in which an employee must be informed that he or she may

request the presence of a VSEA representative during an investigative meeting. It states:

"Whenever an employee is required, by his or her supervisor or management, to give oral or written statements on an issue involving the employee, which may lead to discipline against the employee ... he or she shall be notified of his or her right to request the presence of a VSEA representative and, upon such request, the VSEA representative shall have the right to accompany the employee to any such meeting."

Therefore, an investigator who wishes to interview an employee suspected of wrongdoing must provide the employee with notice of the right to request VSEA's presence at the interview. Such a request may not be refused except on advice of legal counsel. It is recommended that a memo be issued to the employee, scheduling an investigative meeting and providing the required notice in writing. Should any question arise, the memo would resolve doubts as to whether the notification was given.

When the investigator seeks to interview an employee who is a potential witness but is not suspected of wrongdoing, the above notification is not required. But if the investigator thereafter determines, due to the discovery of new information or for any reason, that the interview may lead to discipline against the employee, the required notice must be provided. Should that situation arise during an interview, the interview should be interrupted for the purpose of providing the notification and appropriate allowance made for the employee to secure VSEA representation, if requested, before continuing the interview.

B. Deadlines for Completing Investigations:

1. Article 14, Section 1, of the Non-Management Unit Agreement states: "... the State will: a. Act promptly to impose discipline or corrective action with a reasonable time of the offense."

Investigations must be completed promptly so that the State may impose disciplinary action within a reasonable time of the offense. There is no universal rule which dictates how quickly investigations must be completed to satisfy this requirement, so each case will be reviewed on the basis of its individual facts. If the State has been reasonably diligent in a given case, this requirement should not crate a problem.

In one case, it was found that a seven (7) month delay between the employee's offense and the discipline violated the contract. This was true even though the discipline was delayed because the employee's actions were a small piece of a larger investigation which legitimately took months to complete. The VLRB concluded that the employer should have separated the different parts of the investigation. It may be advisable, therefore, to investigate individual employees

separately, or to carve out conclusions with respect to individual employees to ensure discipline is imposed within a reasonable time.

2. Individual State policies may provide time guidelines for the preparation of employer investigations which are separate from the collective bargaining agreements. For example, the State's policy on Sexual Harassment provides that the investigation should be normally completed within thirty (30) days. Thus, individual policies applicable to cases should be consulted to ensure deadlines are complied with.

C. **Tape Recording of Investigative Meetings**:

Under Article 14, Section 7a, of the Non-Management Agreement, whether or not investigative interviews are tape recorded is at the discretion of the State. If the State does not tape an interview, no other taping will be permitted without the State's consent. (See Section 7c of the contract.) However, if the State does tape an investigative interview of an employee against whom discipline is contemplated, it must allow the employee to also tape the interview and promptly provide him or her with a duplicate copy. Where the State tape records an interview involving a witness, rather than an employee against whom discipline is contemplated, the same rules apply except that the State need only provide the duplicate tape upon request. (See Section 7b of the contract.)

STATUTORY FRAMEWORK

There are some State statutes which are relevant to investigations conducted by the State as the employer.

A. **Polygraphs or Lie Detector Examinations**:

21 VSA 494, et. seq., substantially restricts the employer in the use of polygraph, or lie detector examinations. Therefore, polygraphs should never be conducted without the consent of legal counsel. In general, where an employee's job or some aspect of it is involved, the State as employer may not request or require; or administer, cause to be administered, threaten to administer, or attempt to administer a polygraph examination to an employee or applicant for employment; or request or require that they give an express or implied waiver of a practice prohibited by this statute.[(2)]

As a general rule, therefore, polygraph examinations are not an investigative tool which is available to the State as an employer. They should not even be discussed with an employee in the course of an investigation before seeking advice from legal counsel.

B. **Drug Testing**:

21 VSA 511, et. seq., provides that drug testing is not permitted by employers unless done in compliance with its terms. Drug testing is defined as "a procedure of taking and analyzing body fluids or materials from the body for the purpose of detecting the presence of a regulated drug ..." 21 VSA 511 (4).

Random drug testing ***may not*** be requested, required, or conducted unless it is required by federal law or regulation. (See 21 VSA 513 (b).) **But, if** the State has **probable cause** to believe the employee is using or is under the influence of a drug on the job, drug testing may be conducted, but **only** in compliance with additional terms of 21 VSA 513. The State must also comply with the extensive procedural requirements of 21 VSA 514 in doing so. Legal advice should be obtained before conducting any drug testing.

State employees holding Commercial Drivers Licenses are subject to federal regulations providing for random drug testing. The State has a separate policy applicable to drug testing of such employees, which appears at Section 21.2 of this Policy Manual.

WHEN TO INVESTIGATE

There are circumstances in which the State is obligated to conduct an investigation. When the State becomes aware that discrimination in employment may have occurred, either in the form of sexual harassment or otherwise, it is required by the Equal Employment Opportunity Commission (EEOC) federal regulations to investigate promptly and thoroughly. If the State has information that sexual harassment, for example, is ongoing, it may be appropriate to intervene and take steps to ensure that any offending behavior is immediately stopped. The employer is responsible for discrimination which it knew or should have known about. Thus, the State must investigate whether or not a written or formal complaint has been filed, and whether or not that is the desire of the person who made the complaint.

Since Article 14, Section 1 of the Non-Management agreement commits the State to take disciplinary action within a reasonable time of the offense, this requires the State to investigate promptly all matters which could lead to discipline or corrective action.

WHO SHOULD INVESTIGATE

As a general rule the State does not have a professionally trained unit of investigators to conduct employment investigations. Each organization unit is, therefore, responsible for conducting investigations. The Department of Personnel Employee Relations staff is available for consultation during investigations, and, occasionally to conduct investigations. Agency/department personnel officers, as well as agency/department legal counsel, should be consulted throughout the course of investigations. Personnel officers have a

familiarity with contract requirements and personnel policies which may make them a good choice to conduct investigations.

It is appropriate, to the extent practicable, to ensure that any possible appearance of impropriety is avoided in the choice of investigators. Thus, for example, neither the direct subordinates nor superiors of the alleged wrongdoer(s) should be the investigators. Nor should staff generally be assigned an investigation when they

have had prior involvement in the events under investigation.

EMPLOYEE COOPERATION WITH EMPLOYMENT INVESTIGATIONS

State employees have an obligation to cooperate with their employer regarding employment investigations. It is part of the responsibility of an employee to answer truthfully and fully the work-related inquiries of the State. Refusing to answer, answering incompletely, or answering untruthfully, questions relating to work is a misconduct offense for which an employee may be disciplined up to and including dismissal.

Employees may occasionally answer questions regarding their own behavior, but object to disclosing the misconduct of their co-workers. An employee has the same obligation to cooperate in the investigation of co-workers as if the investigation were into their own conduct. Therefore, while the reluctance of employees may be understandable, honoring such concerns would inappropriately jeopardize the integrity of an investigation.

INVESTIGATION OF POTENTIAL CRIMINAL MISCONDUCT

Where an employee is suspected of violating the criminal law, legal counsel, employee relations and law enforcement personnel should be contacted before an employment investigation is initiated. This is because a criminal investigation is subject to numerous legal technicalities and may be undermined if inappropriate actions are taken by an employer. In such a case, it is generally appropriate to immediately place the employee on temporary relief from duty with pay. (See Article 14, Section 9 of the contract.)

Where there is a connection between an employee's criminal conduct and his or her employment, it may be appropriate to impose discipline for such conduct. The Agreement provides for the immediate dismissal of an employee convicted of a felony. However, a misdemeanor criminal conviction may justify discipline where there is a connection to the employee's job. In addition, even if there is no criminal conviction, discipline may be appropriate if an employee has committed criminal conduct related to the job.

State entities employing law enforcement personnel have occasionally assigned them to investigate the suspected criminal action of employees. This practice is strongly recommended against, because statutory and contractual obligations on employers may apply in such circumstances and may jeopardize flexibility and effectiveness of the criminal investigation. For example, the VLRB has held that investigations carried out by law enforcement personnel of a State agency were subject to the VSEA notice applicable to investigations. (See Article 14, Section 7 of the contract.)

It is recommended that employers work in such circumstances in cooperation with independent law officials. Some delay in the investigation by the employer may be appropriate while a law enforcement investigation or prosecution is underway. The State's overall interests must be evaluated to determine whether and to what extent delaying the employer's investigation is warranted.

USAGE OF THE "GARRITY" WARNING

In ***Garrity vs. New Jersey***, the U.S. Supreme Court held that information provided to an employer under the threat of dismissal for non-cooperation with an investigation was not admissible in criminal court to be used against the employee. This legal doctrine may be relevant to a circumstance in which the State is investigating conduct by an employee which may have been criminal.

Employees may assert that they have a Constitutional Fifth Amendment right not to answer questions in an employment investigation which may tend to incriminate them in criminal activity. They may refuse to answer questions on those grounds. The State cannot in such circumstances force the employees to answer questions. However, neither the Constitution nor the contract prohibit the State from taking appropriate disciplinary action against such an employee for not cooperating with the employer's investigation.

Employees' Constitutional Rights remain protected in this context because the Constitution, under ***Garrity***, provides them with a forma of immunity which prohibits the use of information provided to the employer under threat of dismissal against them in criminal court. Thus, the ***Garrity*** doctrine protects the Constitutional Rights of the employees in criminal prosecutions while permitting the employer to conduct an unrestricted investigation into potentially criminal misconduct in the work place.

The State has drafted a ***Garrity Warning*** (see Attachment A), which should be given to employees if they assert a Fifth Amendment Constitutional right to refuse to answer questions. It gives the employee notice of the operation of the ***Garrity*** doctrine in this context. Legal counsel should be consulted if the employee still refuses to answer questions, and discipline is under consideration.

ATTACHMENT A - GARRITY WARNING

Before you are asked any further questions, you should review this document, which is intended to advise you of both your rights and responsibilities as an employee of the State of Vermont in the context of this meeting.

The purpose of this meeting is to obtain your response to questions which arise from suspicions of misconduct relating to your job.

You are advised that this meeting is purely an administrative inquiry related to your employment. You have all the rights and privileges provided for under the Unites States and Vermont Constitutions, statutes, and the employee contract, including the right to remain silent and the right to be represented by your choice of the Vermont State Employees' Association, Inc., or private legal counsel.

However, it is **extremely** important that you understand you have a duty as an employee of the State of Vermont to cooperate with an investigation by your employer, and to answer relevant and material questions which relate to your official duties. **Your failure to cooperate with this investigation, and your refusal to answer questions which relate to your job, may cause you to be subjected to discipline, including possible dismissal, by the State of Vermont.**

Therefore, while you have the right to remain silent, asserting that right in this context may subject you to dismissal from employment.

Any information or evidence you furnish in response to questions asked of you during this meeting, or any information or evidence which is gained by reason of your answers, may not be used against you in criminal proceedings, according to the ruling in ***Garrity vs. New Jersey***, 385 US 493 (1967); however, any information or evidence you furnish in this meeting may be used against you administratively.

I certify that I have read and understand the above statement, and have received a copy of this warning.

Employee: _____

Witness: _____

Dated: _____

1. References herein are to the Non-Management Unit, and similar provisions are generally present in other unit agreements. However, the applicable unit agreement should always be consulted for specific reference.

2. See Also, 21 VSA 494b, which authorizes the Department of Public Safety to require polygraph examinations for applicants for employment as sworn police officers.

ALCOHOL AND CONTROLLED SUBSTANCE TESTING

Number 17.2

Effective Date: March 1, 1996

Subject: ALCOHOL AND CONTROLLED SUBSTANCE TESTING

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

I - PURPOSE

This policy is promulgated in accordance with the requirements of federal law and regulation, 49 CFR Parts 382, et.al. The purpose of this policy is to establish an alcohol and controlled substances testing program for certain State of Vermont employees for the safety of all employees and the public and to help prevent accidents and injuries resulting from the misuse of alcohol and controlled substances by drivers of commercial motor vehicles. This policy outlines prohibited employee conduct concerning work related possession or use of alcohol or drugs (controlled substances) by commercial motor vehicle drivers and the steps that may be taken in response to violations of this policy. An Employee Assistance Program is available and employees are encouraged to seek assistance for substance abuse problems that could affect their employment.

II - DEFINITIONS

Unless otherwise indicated, words or phrases used in this policy shall be defined consistent with 49 CFR, Part 40.29, et. al. (August 19, 1994), and 21 VSA 511.

III - APPLICABILITY

This policy shall apply to: a) all employees of the State of Vermont who are required by the State to possess and maintain a commercial driver's license (CDL) in their present job; and b) employees of the State of Vermont for whom the State has paid for the issuance or renewal of a CDL license even though it is not necessarily required as a condition of employment in their present job; and c) employees of the State of Vermont who annually volunteer (normally during the month of October) for and are permitted to drive commercial motor vehicles for the State, but who are not required to possess and maintain a CDL in their

present job, and whose CDL license is not paid for by the State. The employees subject to this policy may hereinafter be referred to as "drivers" or "CDL drivers".

NOTE: Those employees required by the State to possess a commercial driver's license, but which has not yet been paid for by the State, are also covered by this policy.

NOTE: Those CDL drivers not required to possess and maintain a CDL license may elect not to renew their annual voluntary offer to drive commercial motor vehicles and would, thereafter, not be covered by this policy.

IV - PROHIBITIONS

1. Alcohol Concentration:

0.04 Level - No CDL driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 Blood Alcohol Content (BAC) or greater. Each driver who has engaged in conduct prohibited by this section shall be subject to the provisions of section 382.605 of 49 CFR before being permitted to return to work performing safety sensitive functions, to include evaluation by a substance abuse professional (SAP), successful completion of any prescribed rehabilitation program, and return to duty alcohol test with a result indicating an alcohol concentration of less than 0.02 BAC. Affected drivers shall be permitted to use sick leave (or annual, personal, or compensatory time off if sick leave is exhausted) for the time necessary to attend any prescribed rehabilitation program during normal working hours, and may be subject to unannounced follow-up alcohol and/or controlled substances tests following return to duty. In addition, any initial violation of the provisions of this section shall be considered to be a very serious, job-related, offense, and will result in the driver being notified, in writing, of: the extreme seriousness of the violation; that any similar conduct in the future could result in more severe disciplinary action; and that completion of any prescribed rehabilitation program is required. (See also Section VIII, Return to Duty Provisions, below). Such notice will be maintained in the employee's CDL testing file, but may be used by the employer in a current or subsequent proceeding connected with a violation of this policy. Any subsequent violation of the provisions of this policy will result in disciplinary action.

0.02 - 0.039 Level - If it is determined that an employee reports for duty or remains on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 to 0.039 BAC, (s)he shall be assigned to perform non-safety-sensitive functions for at least 24 hours from the time the determination is made, and should be given a referral to the Employee Assistance Program. In addition, any initial violation of the provisions of this section shall be considered to be a very serious, job-related, offense, and will result in the driver being notified, in writing, of: the seriousness of the violation;

that any similar conduct in the future could result in more severe disciplinary action. Such notice will be maintained in the employee's CDL testing file, but may be used by the employer in a current or subsequent proceeding connected with a violation of this policy. Any subsequent violation of the provisions of this policy will result in disciplinary action. If assignment to non-safety sensitive duties is not possible, an employee may be permitted to use sick leave for the absence. If subsequent violations of this provision occur, the driver will be carried off-payroll for the 24 hour period if assignment to non-safety sensitive duties is not possible, and may also be subject to other disciplinary action.

2. **Alcohol Possession**:

No CDL driver shall be on duty or operate a commercial motor vehicle while possessing alcohol, unless the alcohol is manifested and transported as part of a shipment, or is litter pickup and is not carried in the driver's compartment. Violation of this provision will result in disciplinary action.

3. **On-Duty Use**:

No CDL driver shall use alcohol while performing safety-sensitive functions. Violation of this provision will result in disciplinary action.

4. **Pre-Duty Use**:

No CDL driver shall perform safety-sensitive functions within four (4) hours after using alcohol. Violation of this provision on a normally scheduled work shift or when scheduled for overtime work, and/or when the driver has fair notice that (s)he could be contacted and required to perform unscheduled work outside normal working hours, could result in disciplinary action.

5. **Use Following an Accident**:

No CDL driver required to take post-accident controlled substance and alcohol tests shall use alcohol for at least eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first. Violation of this provision will result in disciplinary action. A CDL driver involved in a commercial motor vehicle accident that involves the loss of human life, or who receives a citation under State or local law for a moving traffic violation arising from the accident, would be subject to post-accident controlled substance and alcohol testing as specified in Section 382.303,a(1) and 383.303,a(2) of 49 CFR (February 15, 1994).

6. **Controlled Substances Use**:

No CDL driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance as

defined in 49 CFR, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle. Each driver who has engaged in conduct prohibited by this section shall be subject to the provisions of section 382.605 of 49 CFR before being permitted to return to work performing safety sensitive functions, to include evaluation by a substance abuse professional (SAP), successful completion of any prescribed rehabilitation program, and return to duty controlled substances test result with a verified negative result. Affected drivers shall be permitted to use sick leave (or annual, personal, or compensatory time off if sick leave is exhausted) for the time necessary to attend any prescribed rehabilitation program during normal working hours, and may be subject to unannounced follow-up alcohol and/or controlled substances tests following return to duty. In addition, any initial violation of the provisions of this section shall be considered to be a very serious, job-related, offense, and will result in the driver being notified, in writing, of: the extreme seriousness of the violation; that any similar conduct in the future could result in more severe disciplinary action; and that completion of any prescribed rehabilitation program is required. (See also Section VIII, Return to Duty Provisions, below). Such notice will be maintained in the employee's CDL testing file, but may be used by the employer in a current or subsequent proceeding connected with a violation of this policy. Any subsequent violation of the provisions of this policy will result in disciplinary action.

CDL drivers are required to inform their immediate supervisor of any use of: a non-prescription drug which a doctor or product label indicates might affect the safe performance of safety sensitive functions; and/or the use of prescription medications that a pharmacist or doctor indicates would affect the safe performance of safety sensitive duties. Employees are required to ask their doctor(s) about the effect of any prescribed medication on the performance of safety sensitive duties, and report accordingly. It is recommended that employees submit written notice to their supervisors of such therapeutic drug use that might affect the safe performance of safety sensitive functions.

NOTE: Supervisors are reminded that individual medical information is considered to be confidential, and that the inappropriate dissemination or abuse of such information could result in disciplinary action.

7. **Controlled Substances Tests**:

No CDL driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive for controlled substances as defined in 49 CFR. Each driver who has engaged in conduct prohibited by this section shall be subject to the provisions of section 382.605 of 49 CFR before being permitted to return to work performing safety sensitive duties, to include evaluation by a SAP, successful completion of any prescribed rehabilitation program, return to duty controlled substances test result with a verified negative result. Affected drivers

shall be permitted to use sick leave (or annual, personal, or compensatory time off if sick leave is exhausted) for the time necessary to attend any prescribed rehabilitation program during normal working hours, and may be subject to unannounced follow-up alcohol and/or controlled substances tests following return to duty. In addition, any initial violation of the provisions of this section shall be considered to be a very serious, job-related, offense, and will result in the driver being notified, in writing, of: the extreme seriousness of the violation; that any similar conduct in the future could result in more severe disciplinary action; and that completion of any prescribed rehabilitation program is required. (See also Section VIII, Return to Duty Provisions, below). Such notice will be maintained in the employee's CDL testing file, but may be used by the employer in a current or subsequent proceeding connected with a violation of this policy. Any subsequent violation of the provisions of this policy will result in disciplinary action.

8. **Refusal to Submit to a Required Alcohol or Controlled Substances Test**:

No CDL driver, or applicant for employment as a CDL driver, shall refuse to submit to, or fail to cooperate with, any random, reasonable suspicion, post-accident, or follow-up alcohol or controlled substances test required under this policy and/or Federal regulations. Any driver who refuses to submit to, or cooperate with, any such test(s) shall be placed in an unpaid leave status until the test is taken and may also be subject to disciplinary action.

V - ALCOHOL AND CONTROLLED SUBSTANCES TESTS REQUIRED

Alcohol and controlled substances testing of CDL drivers for pre-employment purposes, post-accident testing, random testing, reasonable suspicion testing, return-to-duty testing, and follow-up testing will be conducted in conformance with the provisions of Subpart C-Tests Required, 49 CFR, Parts 382 et. al. Random testing shall take place during normal working hours. Time spent in such required testing is considered to be time actually worked.

1. **Pre-employment Testing**:

Prior to the first time a driver performs safety-sensitive functions, the driver shall undergo testing for controlled substances and alcohol (if alcohol tests are required by 49 CFR, Part 382.301), but may be exempted at the discretion of the employer if also permitted under Federal regulations. No driver will be allowed to perform safety-sensitive functions unless (s)he has been administered an alcohol test (if required by Federal regulations), with a result indicating an alcohol concentration less than 0.04, and has received a controlled substances test result from the medical review officer indicating a verified negative test result. Original probationary employees who do not successfully complete such tests will be terminated from employment immediately. Permanent status employees who do not successfully complete such tests will be subject to the same

processes and sanctions as are prescribed in Sections IV, 1, and 7, above, as appropriate.

2. **Post-Accident Testing**:

Alcohol and controlled substances tests shall be administered as soon as practical following an accident involving a commercial motor vehicle, as provided for in Sections 382.303(a),1 and (a),2 of 49 CFR. (February 15, 1994). Post accident alcohol test should be administered within 8 hours following the accident, and post accident controlled substance test should be administered within 32 hours following the accident. A CDL driver involved in a commercial motor vehicle accident that involves the loss of human life, or who receives a citation under State or local law for a moving traffic violation arising from the accident, would be subject to post-accident controlled substance and alcohol testing.

3. **Reasonable Suspicion Testing**:

Reasonable suspicion testing shall be conducted in conformance with the provisions of 49 CFR Section 382.307. At the request of an employee required to take such a test, she/he may phone a VSEA steward for consultation and/or a steward shall be permitted to be present, so long as obtaining such representation does not unreasonably delay the administration of the test(s) (i.e., within the two hour period required by federal regulations).

VI - HANDLING OF TEST RESULTS, RECORD RETENTION, AND CONFIDENTIALITY

The creation and retention of records, reporting of results of the alcohol and controlled substances testing program, and provisions concerning access to facilities and records shall be in conformance with Subpart D, Handling of Test Results, Record Retention and Confidentiality, 49 CFR, Parts 382 et.al. Access to individual CDL testing file information, by anyone other than the assigned custodian(s) of these records, shall have the prior approval of the Department or Agency personnel officer.

NOTE: The parties agree that an employee would be allowed to view his/her own CDL testing file, on request, and in accordance with the provisions of this section, at a time convenient to, and in the presence of, the assigned custodian of the file.

VII - ALCOHOL MISUSE AND CONTROLLED SUBSTANCES USE INFORMATION, TRAINING AND REFERRAL

Educational materials concerning this policy and the Employee Assistance Program will be distributed to CDL drivers prior to the start of alcohol and controlled substances testing under this policy, and to each driver subsequently

hired or transferred into a CDL driver position. Such materials shall conform to the requirements of Section 382.601 (b) of Subpart F, Alcohol Misuse and Controlled Substances Use Information, Training, and Referral, of 49 CFR Parts 382, et.al. Each CDL driver is required to sign a statement certifying that he or she has received a copy of these materials.

VIII - MISCELLANEOUS PROVISIONS

1. Return to Duty Provisions

CDL drivers, subject to the provisions of 382.605 of 49 CFR as a condition of returning to work following a violation of a provision(s) of this policy, may be permitted to return to work, performing safety sensitive functions, on a conditional basis, in the following circumstance and before fully completing a rehabilitation program prescribed by a SAP. If the SAP certifies, in writing to the appointing authority (e.g., in AOT, the District Transportation Administrator or Agency Personnel Chief), that the driver has partially complied with the prescribed rehabilitation program to the extent that s/he should be returned to work, the driver may then be administered a return to duty alcohol and/or drug test. The driver must then attain a test result indicating an alcohol concentration of less than 0.02 BAC and/or a verified negative controlled substances test before being returned to duty. Return to duty shall be conditional upon the driver's continued participation in, and full completion of, any prescribed rehabilitation program. Failure to participate in, or fully complete, the prescribed rehabilitation program shall be deemed to be a second occurrence of the original violation.

2. Split Sample Testing

In the event that: a CDL driver receives a positive test for controlled substances, as defined in 49 CFR; and federal regulations require that a split sample be made available for analysis; and the driver has the split sample independently analyzed by a qualified laboratory in accordance with applicable provisions of the federal regulations (49 CFR, part 40); and such independent analysis produces a verified negative result; then the cost of the independent analysis shall be submitted to the employer for reimbursement, along with a copy of the independent laboratory's report.

DRUG-FREE WORKPLACE POLICY

Number 17.3

Effective Date: March 1, 1996

Subject: DRUG-FREE WORKPLACE POLICY

Replaces Drug Free Workplace Policy Dated January 12, 1995

Applicable To: All classified employees, as well as exempt, appointed, temporary and contractual, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

As an employer, the State of Vermont is responsible for maintaining safe, efficient working conditions for its employees by providing a drug-free workplace. Therefore, State employees shall not engage in the unlawful manufacture, distribution, possession or use of controlled substances (drugs) on the job or on any State work site.

An employee who is under the influence of any drug on the job may pose serious safety and health risks not only to the user but to co-workers and the general public at large.

DEFINITIONS

CONTROLLED SUBSTANCE - as used in this policy shall mean a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812), and as further defined in regulation at 21 CFR 1308.11-1308.15.

CONVICTION - means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

CRIMINAL DRUG STATUTE - means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use or possession of any controlled substance.

ILLEGAL DRUG - any drug which is not legally obtainable, or which is legally obtainable but has not been legally obtained. The term includes prescribed drugs not legally obtained and not being used for prescribed purposes.

LEGAL DRUG - includes prescribed drugs and over-the-counter drugs which have been legally obtained and are being used for the purpose for which they were prescribed or manufactured.

UNDER THE INFLUENCE - means, for the purpose of this policy, that the employee is noticeably affected by a drug.

WORKPLACE - is defined to include non-State owned property which is used in the conduct of State business, including property used temporarily for business related purposes, such as lodging sites rented for seminars, training, or other State activities.

APPLICABILITY AND GENERAL POLICY CONDITIONS

The following conditions shall be applicable to all employees of the State of Vermont:

1. Employees shall be required, as a condition of their employment, to abide by the terms and conditions of this Drug-Free Workplace Policy.
2. An employee shall notify the appointing authority of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction. Failure to do so will result in discipline, up to and including dismissal.
3. The appointing authority of a convicted employee who works in a federally funded program must notify the involved federal grant agency of the conviction within ten (10) days of receiving notice of the conviction.
4. An employee **convicted** under any criminal drug statute for a violation occurring in the workplace, while on or off duty, or on duty away from the workplace, shall be immediately dismissed for the first offense.
5. In the absence of compelling mitigating circumstances, an employee **convicted** under any criminal drug statute for a violation not occurring in the workplace while **not** on duty shall be subject to immediate dismissal for the first offense if convicted of a felony. If the conviction is not a felony, discipline up to and including dismissal may be imposed, including for the first offense, provided that there is a nexus between the offense and the job of the employee.
6. Appropriate disciplinary and/or corrective action is to be taken within thirty (30) days after the employer receives notice of a conviction. This, however, is not to be construed to limit the authority of the employer to take such action thereafter. Any disciplinary action must comply with the collective bargaining agreement, Section 504 of the Rehabilitation Act of 1978, and the Americans with Disabilities Act, if applicable.

7. An employee not convicted under any criminal drug statute, but who engages in the illegal manufacture, distribution, dispensation, possession or use of controlled substances in any State workplace while on or off duty, or on duty away from the workplace, shall be subject to discipline up to and including dismissal for the first occurrence. An employee engaging in such actions while off duty and away from the workplace may be subject to discipline, up to and including dismissal, including for the first offense, provided there is a nexus to the employee's job and just cause for the discipline.
8. Any employee on State premises who appears to be under the influence of, or who possesses illegal or non-medically authorized drugs, or who has used such drugs on State premises, may be temporarily relieved from duty pending further investigation.
9. If the use of legal drugs endangers safety, management may (but is not required to) reassign work on a temporary or permanent basis.
10. Employees must observe other work rules established by their employing departments regarding the use, possession or presence of drugs involving their employment.
11. Each employee of the State of Vermont will make a good faith effort to maintain a drug-free workplace and uphold and promote this policy.

USE OF DRUGS

Legal Drugs: For certain positions, the legal use of a drug can pose a significant risk to the safety of the employee or others. Employees who feel or have been informed that the use of such a drug may present a safety risk, are to report such drug use to their immediate supervisor.

Illegal Drugs: The use, sale, purchase, transfer or possession of an illegal drug by an employee while in a State facility, while performing State business, or while on the job is prohibited. Being under the influence of any illegal drug while conducting State business, while on State property or in a State facility, or while operating any State equipment is prohibited. Misuse of prescription drugs is considered to be the illegal use of drugs. This includes both the use of such drugs in a manner inconsistent with the prescribed use and any use of prescription drugs by persons for whom they are not prescribed.

RESPONSIBILITIES:

Employer: It is the responsibility of each appointing authority to advise each employee of this policy; to post the policy annually at each worksite; to include a copy of this policy in each new employee's orientation; to permit and encourage employees to avail themselves of the State Employee Assistance Program (EAP); to provide training for managers and supervisors regarding the management of employees towards a drug-free workplace; and to take action with regard to any violations of this policy.

Employee: It is the responsibility of each employee to be aware of and to abide by this policy.

Administration: It is the responsibility of the Department of Personnel to ensure that managers, supervisors and employees receive training and orientation regarding the implementation of this policy.

Employee Assistance Program: It is the responsibility of the EAP to provide necessary information and support to the employee, the appointing authority and to the administration to ensure adequate implementation of this policy. This will include informing employees of the dangers of drug abuse in the workplace and to inform them of drug counseling, rehabilitation and EAP programs available to employees. (Please refer to Appendix A for additional information regarding EAP).

APPENDIX A - EMPLOYEE ASSISTANCE PROGRAM

The Employee Assistance Program (EAP) is a voluntary, confidential counseling program designed to assist employees and members of their immediate families with personal problems such as family or marital difficulties, problems with alcohol or drugs, emotional illness, or financial or legal worries. EAP coordinators will help employees with personal problems by offering advice and providing appropriate screening and referrals to outside rehabilitative services or agencies.

A. The State of Vermont supports this program for its employees and urges employees to seek assistance from the EAP before substance abuse or other personal problems interfere with work performance and disciplinary or corrective action must be used.

B. Employees can be offered rehabilitation through the EAP, however, it is the responsibility of each employee to seek assistance from the EAP before alcohol or drug problems lead to disciplinary action or performance corrective action. A supervisor, manager, appointing authority or personnel officer may recommend that the employee seek counseling from the EAP with regard to an appropriate treatment or rehabilitation program. Costs associated with treatment are subject to the employee's own resources or covered medical expenses through group medical plans.

C. The employee's decision to seek assistance from the EAP or a rehabilitation program is totally confidential and, therefore, medical treatment and referral records pertaining to EAP screening or any rehabilitation of drug or alcohol dependent employees are protected as confidential.

D. There are two types of referrals to the EAP: self-referral and supervisory referral.

1. <u>Self-referral</u>: occurs when an employee or one of his or her dependents voluntarily seeks assistance to solve a personal problem. Guidelines on how to obtain assistance are:

- The employee or dependent who would like confidential assistance should call the EAP Coordinator at 241-2173 or toll free at 1-800-287-2173.
- The EAP Coordinator will provide the necessary assistance during a telephone call or, if necessary, arrange to see the employee or dependent for further confidential consultation. In some instances, the EAP Coordinator may need to talk with the employee to determine the nature of the problem; to determine the best community resource to help solve the problem; or arrange for any initial appointment with a counselor.
- If an employee would prefer to talk only to an outside counselor, the EAP Coordinator can arrange an initial appointment with an outside counseling service at the employee's request.
- All communication between the employee or dependents and the EAP Coordinator will be confidential.

2. <u>Supervisor Referrals</u>: Supervisors are responsible for directing an employee to the EAP if a personal problem appears to be affecting the employee's work performance.

- If an employee's treatment program requires release from work time, the employee must make a request to the supervisor prior to using any leave time.

STATEWIDE SMOKING POLICY

Number 17.4

Effective Date: March 1, 1996

Subject: STATEWIDE SMOKING POLICY

Replaces Statewide Smoking Policy Dated November 1, 1993

Applicable To: All classified employees, as well as exempt, appointed, and temporary, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: William Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The State of Vermont and the Vermont State Employees' Association, Inc., (VSEA) in order to comply with the provisions of 18 VSA 1421, et seq., jointly establish this policy to protect workers by prohibiting smoking in the workplace except in designated areas.

It shall be the goal of the State to provide healthy and safe work environments for all Vermont State employees, to ensure that the health hazard created by second hand smoke is removed from the workplace, and to guarantee that regulations restricting workplace smoking are implemented in a timely manner.

DEFINITIONS

SMOKING AREA - an area that non-smoking employees are not required to visit on a regular basis where smoking is permitted pursuant to a policy established under 18 VSA 1421. Up to thirty (30) percent of employee cafeteria and lounge areas may be designated as a smoking area.

SMOKING POLICY - a written policy that shall prohibit smoking throughout the workplace or restrict smoking to designated enclosed smoking areas and defines where those areas are located.

WORKPLACE - means an enclosed structure where employees perform services for an employer, or in the case of an employer who assigns employees to departments, divisions or similar organizational units, the enclosed portion of a structure where the unit to which the employee assigned is located. Except for

schools, workplace does not include areas commonly open to the public nor any portion of a structure which also serves as the employee's or employer's personal residence.

GENERAL PROCEDURES

STATEWIDE SMOKING COMMITTEE: The State and the VSEA shall establish a Statewide Smoking Committee comprised of an equal number of representatives, not to exceed four (4) members each, who shall be responsible to:

analyze the requirements of 18 VSA 1421, **et seq**., and 18 VSA 1741, et. seq. in relation to the State worksites;

- establish, publish, and distribute this smoking policy and guidelines for its implementation, which includes the establishment of local worksite committees; and provide on-going administration and application of the Statewide Smoking Policy;
- instruct and assist local worksite committees in the development and implementation of local policy;
- review and approve any and all local policies to ensure that the local policies comply with the Statewide Smoking Policy and the requirements of 18 VSA 1421, **et seq**. and 18 VSA 1741, **et. seq**.;
- mediate disputes at local worksites regarding the formation of a local policy by sending a representative of the State and VSEA to the worksite to assist the local committee;
- advise the Commissioner of Personnel and the Executive Director of VSEA of any problems regarding the establishment of a Smoking Policy and/or problems in local worksites;
- perform other related duties as agreed upon by the Commissioner of Personnel and VSEA.

LOCAL WORKSITE COMMITTEES: A Local Worksite Committee (LWC), consisting of ***fair*** representation among management, VSEA members, smokers, and non-smokers, shall be established in each worksite. Volunteers from both smoking and non-smoking populations shall be solicited, and the group shall select a chairperson from among its members. The Secretary of Administration or his or her designee shall determine which buildings, or portions of buildings, shall constitute one worksite for these purposes (See Attachment A).

The role of the LWC shall be to propose a smoking policy for the worksite. The LWC will have the option of recommending that smoking be prohibited in the worksite, or recommending a designated smoking area which is consistent with the requirements of the statute and this policy.

The LWC shall review the LWC implementation guidelines (See Attachment B) in relation to the physical setting of the involved worksite, any existing worksite smoking policy, and any other factors outlined in this policy.

The LWC shall consult with and coordinate its proposed smoking policy with other State offices which share space and/or may be affected by the proposed smoking policy.

The LWC should consult with representatives of the Buildings Department if questions about the physical office setting, ventilation, etc., arise. The LWC should determine whether the air in the building is re-circulated as this may affect the establishment of any smoking areas. The LWC shall call upon the Statewide Smoking Committee for other assistance if necessary.

The LWC shall submit its proposed local smoking policy, in writing, to the Statewide Smoking Committee, through the Commissioner of Personnel and the Executive Director of the VSEA, for review and approval.

Any employee may propose a change to a local smoking policy through the LWC. The LWC shall attempt to reach consensus on the proposed change. Any proposal by the LWC to change a local policy must be submitted in writing to the Commissioner of Personnel and the Executive Director of the VSEA. If the LWC is unable to resolve the issue, it shall follow the mediation process outlined below. If the issue is not resolved after 45 days of review and discussion by the LWC, the Commissioner of Personnel may decide to implement the change, provided (s)he first notifies the VSEA, and that said change does not violate this policy or the law. The LWC and the Statewide Smoking Committee shall be encouraged to thereafter continue their efforts to establish, by consensus, a resolution to the issue.

WORKSITE MEDIATION: The LWC shall immediately notify the Commissioner of Personnel and the Executive Director of the VSEA if it is unable to reach consensus on an appropriate smoking policy. The State and VSEA shall each appoint one representative from the Statewide Smoking Committee to meet with the LWC to attempt to mediate the dispute and facilitate the formation of a policy.

Any dispute over the meaning of this policy or statute shall be submitted to the Statewide Smoking Committee for clarification and resolution.

If mediation does not result in consensus on an appropriate local smoking policy, the State and VSEA representatives shall outline the unresolved issues to the Statewide Smoking Committee for resolution.

EMPLOYEE AND EMPLOYER COMPLIANCE: Employees and employers are expected to comply with the smoking policy established in their workplace. The employer is required to post a copy of the smoking policy in a conspicuous

location at the workplace. Each employee shall receive a written copy of the policy which shall include the expectations of compliance. Management shall utilize progressive discipline in the case of an employee who fails to comply with the smoking policy. If an employer fails to adhere to the smoking policy, an employee may grieve starting at Step II. If a designated smoking area is established, employees who are smokers shall be permitted a reasonable amount of time during the work day to smoke. The State will not discriminate against smokers who utilize authorized smoking break time. The employee is expected to fulfill his or her job duties even though (s)he may be absent from the work area on authorized smoke breaks.

Any compliance problems under the smoking policy which cannot be resolved by the employees themselves should be referred to the appropriate supervisor and, if necessary, to the department head or commissioner for review.

EXPENDITURE OF MONIES: Neither the Statewide Smoking Committee nor the Local Worksite Committee shall have the authority to require the State to expend monies in connection with the requirements of 18 VSA 1421.

GRIEVANCES: The VSEA or an employee shall have the right to grieve the State's failure to follow this policy or the process for revising it as outlined herein and under the State/VSEA contract. An employee aggrieved by the State's failure to comply with 18 VSA 1421 shall file said complaint with the Vermont Department of Health in accordance with the provisions of that Statute.

ATTACHMENT A - WORKPLACE DESIGNATIONS

The Statewide Smoking Policy requires the Secretary of Administration to designate worksites so that committees can form to determine local smoking policies. Following are the designated worksites as well as general guidance on smoking in areas not assigned to an agency or department.

DESIGNATED WORKSITES:

To ensure consistency of policy and to avoid later conflicts among employees, a general rule has been established that **each building is a worksite**. This will allow for more efficient use of common areas such as cafeterias and any rooms that may be designated for smoking. When more than one agency shares a building, the Local Worksite Smoking Committee (LWC) should include representatives from every affected agency/department.

The following Montpelier buildings are designated as worksites. For each building, a single building-wide smoking policy must be adopted by the LWC. The lead agency listed should impanel the worksite committee:

- 109 State Street (Excepting Attorney General if (s)he desires to be excluded), link to 111 State Street, and that part of 111 State Street assigned to the Department of Libraries - Commissioner of Finance and Management
- 120 State Street - Commissioner of Education
- 133 State Street (Except Treasurer if (s)he desires to be excluded) - Secretary of Transportation

DELEGATION OF AUTHORITY:

For buildings not listed above, if the building is occupied by a single agency, that agency's secretary or commissioner should impanel the committee called for in the Statewide Smoking Policy. In a building or worksite assigned to two or more agencies, any secretary involved should impanel the committee. If two commissioners are involved, the commissioner with longest tenure in office should impanel the committee.

When a worksite is occupied by executive branch employees and employees of the judicial or legislative branches, the appointing authority outside the executive branch should be invited to join the worksite committee, but (s)he retains the right to form a separate worksite committee.

When a department has sole occupancy of more than one building, the commissioner or secretary may create a combined smoking committee to apply to all such buildings.

COMMON AREAS:

Many buildings have hallways, attics and odd spaces which are not formally assigned to a specific department but which may be used to varying degrees. If a department has sole control over such space, it should be included in that department's policy.

A new law that became effective on July 1, 1993, 18 V.S.A. 1741, prohibits the possession of lighted tobacco products in any form in the common areas of all enclosed indoor places of public access and publicly owned buildings and offices. These common areas include lobbies, hallways, elevators, rest rooms and cafeterias. Smoking will not be allowed in any of these areas.

ATTACHMENT B - LOCAL WORKSITE COMMITTEE IMPLEMENTATION GUIDELINES

This document is intended to assist in the interpretation of 18 VSA 1421, and 18 VSA 1741, relating to smoking in the workplace. The law provides that a smoking policy establish either a smoking ban in the worksite, or a designated smoking area consistent with the parameters set forth in the law.

If a Local Worksite Committee (LWC) considers establishing a smoking area, the law outlines three possible avenues for doing so.

1. The law allows for designated enclosed smoking areas. These areas may include a room with floor to ceiling partitions which is not a common work area, or a private office, provided that the room has a floor to ceiling partition. The LWC should consider whether the designated enclosed smoking area is sufficiently enclosed or ventilated to ensure that smoke will not affect nearby non-smoking areas.

If a private office is a designated smoking area, smoking shall not be permitted during meetings with other people in that setting unless the others present consent. A private office may not be designated a smoking area unless it can be established that the smoke can be confined to and ventilated from that area.

In buildings where the heating/cooling/ventilation system recirculates the air within the building, it is inconsistent with the overall purpose of the law to permit smoking in a designated area unless that area has a ventilation capability which will ensure that smoke does not affect non-smoking areas in the building.

The smoking area must be an area that non-smoking employees are not required to visit on a regular basis. Those areas which employees are "required to visit on a regular basis" include, but are not limited to: (a) any work area that has commonly used equipment, such as a photocopying room, a computer room, a file room; (b) an area, or private office space to which employees must normally report in order to review and/or discuss work assignments with their supervisor; (c) other areas which an employee can demonstrate must be visited on a regular basis. Smoking is not permitted in meetings at which non-smokers are present, nor if the meeting area is a non-smoking area.

2. The law allows for designated unenclosed smoking areas if: (a) the layout of the workplace is such that smoking will not be a physical irritation to any non-smoking employee in the workplace; and (b) three-fourths of the employees in the workplace agree. This <u>narrow</u> exception outlines two criteria which must be met. With regard to the physical irritation to non-smokers, the law provides that if <u>any</u> reasonable claim of physical irritation resulting from smoke in an area designated as a "smoking area" is established, then the area may not be designated as a smoking area. There is no question but that the law requires regulation <u>in favor of the non-smoking employee</u>.

3. Up to 30% of an employee cafeteria or lounge area may be designated as a smoking area. In the case of the cafeteria setting, it will be imperative to discuss this matter with representatives from the Buildings Department. Wherever possible, the LWC should devise methods to physically separate and ventilate the smoking and non-smoking areas. This may be easier to achieve in the cafeteria setting than in a lounge area. Since an employee lounge area is

generally small, the LWC should consider whether the area is, or could be, sufficiently ventilated to ensure that smoke does not affect nearby non-smoking areas and non-smokers using the lounge. If a cafeteria or lounge area is so small that smoking in 30% of the area would, as a practical matter, preclude non-smokers from comfortably using the area, it may not be appropriate to approve smoking there. However, if it is the only area in the worksite which would permit you to designate a smoking area, that consideration may favor allowing smoking in the area.

WORKPLACE AND PUBLIC AREA:

The term "workplace", as defined in 18 VSA 1421, describes two types of physical settings. One, "an enclosed structure", references a building setting in which employees work in a layout similar to a factory floor or a large clerical-pool room. This section of the definition encompasses those situations in which the workplace is not divided into separated, sub-unit settings.

"A structure where the unit to which employee assigned is located" references situations similar to many State office buildings. For example, in the AHS complex in Waterbury, a single building houses many separate employee "units". The first floor of the Osgood Building, for example, has the Office on Aging, Corrections, Office of Economic Opportunity, etc. The law contemplates smoking policy development by employees in the "workplace", which, in many State work settings, will be smaller work areas housing a specific group (department or "unit") of State employees, setting smoking policies which comply with the law, but reflect the sentiments of the employees in that work setting.

AREAS OPEN TO THE PUBLIC:

A place of public access includes buildings and offices that the general public has access to or which the general public uses. The public would not have access to a State office beyond the lobby/reception area unless as an invitee to the office, and, therefore, these areas should not be considered commonly open to the public. The fact that the public may frequently be invited into the workplace as clients of a department does not transform the inner-office area to one which is commonly open to the public.

An area is not a "workplace" if the area is commonly open to the public. As stated previously, smoking is prohibited in all common areas of enclosed indoor places of public access.

BLOODBORNE PATHOGENS

Number 17.5

Effective Date: March 1, 1996
Subject: **BLOODBORNE PATHOGENS**
Revised Date: January 1, 2000

Applicable To: All classified employees, as well as exempt, appointed, and temporary, of the Executive Branch of the State of Vermont, who as a result of performing their job duties could be reasonably anticipated to face contact with blood or other potential infectious materials.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

Consistent with Title 29, part 1910 of the Code of Federal Regulations which became effective on March 6, 1992, it is the policy of the State of Vermont to limit all occupational exposure to blood or other potentially infectious materials since any exposure could result in transmission of bloodborne pathogens which could lead to disease or death. Hepatitis B vaccination of exposed employees, utilization of universal precautions, and training are integral to this policy. "Good Samaritan" acts such as assisting a co-worker with a nosebleed would <u>not</u> be considered occupational exposure.

DEFINITIONS

BLOOD: means human blood, human blood components, and products made from human blood.

BLOODBORNE PATHOGENS: means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

OCCUPATIONAL EXPOSURE INCIDENT: means a specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee's duties.

OTHER POTENTIALLY INFECTIOUS MATERIALS: means the following human body fluids: semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids. Also any unfixed tissue or organ (other than intact skin) from a human (living or dead); and human immunodeficiency virus (HIV)-containing cell or tissue cultures, organ cultures and HIV or hepatitis B (HBV)-containing culture medium or other solutions; and blood, organs or other tissues from experimental animals infected with HIV or HBV.

PERSONAL PROTECTIVE EQUIPMENT: is specialized clothing or equipment worn by an employee for protection against a hazard such as gloves, gowns, laboratory coats, face shields or masks, eye protection, mouthpieces, resuscitation bags, pocket masks, etc.

SOURCE INDIVIDUAL: means any individual, living or dead, whose blood or other potentially infectious materials may be a source of occupational exposure to the employee. Examples include, but are not limited to, hospital and clinic patients; clients in institutions for the developmentally disabled; trauma victims; clients of drug and alcohol treatment facilities; residents of hospices and nursing homes; human remains; and individuals who donate or sell blood or blood components.

UNIVERSAL PRECAUTIONS: is a method of infection control that requires departments and employees to assume that <u>all</u> human blood and specified human body fluids are infectious for HIV, HBV, and other bloodborne pathogens. Where differentiation of types of body fluids is difficult or impossible, <u>all</u> body fluids are to be considered potentially infectious.

GENERAL POLICY CONDITIONS

EXPOSURE CONTROL PLAN: The standard is now in effect and each agency/department that employs individuals who are at risk of occupational exposure to bloodborne pathogens (See Attachment A) <u>must</u>, in order to be in compliance with the regulations, develop a written exposure control plan designed to eliminate or minimize employee exposure (See Attachment B). Tasks, procedures and job classifications where occupational exposure to blood or other potentially infectious materials occurs, without regard to whether or not personal protective clothing is provided, must be identified in writing. This plan must also set forth the schedule for implementing other provisions of the federal standard, including providing training to all employees who are potentially at risk of exposure, and must specify the procedure for evaluating circumstances surrounding exposure incidents. This plan must be site specific, accessible to employees, their representatives, and available to VOSHA.

Each plan must be submitted to the Department of Personnel for approval prior to implementation. Agencies/departments must then review their plan at least annually and update it as necessary to accommodate workplace changes. Any changes to the plan must be submitted to the Department of Personnel for review and approval.

METHODS OF COMPLIANCE: Universal precautions shall be observed by agencies/departments to prevent contact with blood or other potential infectious materials. Under circumstances in which differentiation between body fluid types is difficult or impossible, all body fluids shall be considered potentially infectious materials.

Engineering and work practice controls shall be used to eliminate or minimize employee exposure. Where occupational exposure remains after institution of these controls, personal protective equipment shall also be used.

Employees of vendors who have contracts with the State of Vermont, who are employed in positions such as health care laundry workers, need to be notified of the potential risk of infection. The State department contracting for the work must put a clause in the personal services contract that states that the department will notify the employees of the potential risk, but the employer, not the State of Vermont, must provide the vaccination to the employees.

HEPATITIS B VACCINATION: Each agency/department shall make the hepatitis B vaccine and vaccination series available to all employees who are reasonably expected to be at risk of occupational exposure. The vaccination will be made available at no cost to the employee; at a reasonable time and place; given by or under the supervision of a licensed physician or a licensed health care professional; and provided according to the latest recommendations of the U.S. Public Health Service.

The hepatitis B vaccination shall be made available to all employees who are reasonably expected to be at risk of exposure after the employee has received the required training and <u>within ten (10) working days</u> of initial assignment. In the future, booster doses of the vaccination, if recommended by the U.S. Public Health Service, will be made available to the employee.

The employee may take the vaccination; show proof of prior vaccination; show proof of immune status; or sign a waiver stating that he or she does not wish to receive the vaccination. Documentation (see Recordkeeping) must be kept in the employee's official personnel file in the agency/department. If the employee initially declines the hepatitis B vaccination but later while still covered under this policy decides to accept the vaccination, the employer must make the vaccination available at that time.

POST-EXPOSURE EVALUATION AND FOLLOW-UP: The hepatitis B vaccination, post-exposure medical evaluation and follow-up (See Attachment C) will be made available immediately to employees who have had an exposure incident.

The agency/department must give the health care professional responsible for the employee's hepatitis B vaccination a copy of the OSHA standard (which can be obtained from the Department of Personnel, Employee Relations Division). For post-exposure follow-up, the agency/department must give the health care professional a copy of the OSHA standard, a description of the exposed employee's duties (as it relates to exposure), documentation of the routes of exposure and circumstance, and results of source testing if available. Within fifteen (15) days after evaluation of the exposed employee, the employer must provide the employee with a copy of the health care professional's written opinion.

COMMUNICATING HAZARDS TO EMPLOYEES: Each occupationally exposed employee must be given information about the hazard of bloodborne pathogens. Employees shall also be given training (as outlined in Attachment B), at no cost to the employee, at the time of initial assignment, during work hours, <u>and at least once a year</u> thereafter. When existing tasks are modified or new tasks that involve occupational exposure are added, additional training must be provided to the employee. Training will be provided by individuals who are knowledgeable about the subject matter, and the information provided must be appropriate in content and vocabulary to the educational level, literacy, and language of the audience.

RECORDKEEPING: There are two types of records that must be kept for employees who are reasonably expected to be at risk of exposure to bloodborne pathogens.

1. Medical Records - each agency/department shall establish and maintain an accurate record for each employee with occupational exposure. These records shall be kept separate from the employee's official personnel file for the duration of his or her employment <u>plus 30 years</u>. These records shall include:

- employee name and social security number;
- copy of the employee's hepatitis B vaccination status, including dates;
- results of any examinations, medical testing and follow-up procedures in accordance with post-exposure evaluation and follow-up;
- copy of the health care professional's written opinion of evaluation following an exposure incident;
- copy of the information provided to the health care professional to include: a copy of the bloodborne pathogens federal regulations, a description of the exposed employee's duties relating to the exposure incident, documentation of the route and circumstances under which the exposure

occurred, results of the source individual's blood testing if available, and all relevant medical records regarding treatment of the employee.

2. Training records - shall be maintained in the employee's official personnel file for three (3) years from the date on which the training occurred, and shall include the following:

- dates of the training sessions;
- contents or a summary of the training sessions;
- names and qualifications of persons conducting the training;
- names and job titles of all persons attending the training sessions.

Upon request, medical and training records must be made available to the Director of the National Institute for Occupational Safety and Health and to the Occupational Safety and Health Administration. Training records must be made available to the employee or employee representative upon request, and with consent of the employee. Medical records may be made available to the employee or employee representative with the consent of the employee.

COMPLAINTS: If a department fails to comply with this policy, employees may follow Section 4 of the Occupational Safety and Health Article of the Agreement between the State of Vermont and the Vermont State Employee's Association. This policy and the Exposure Control Plans are considered to be VOSHA requirements for these purposes.

Signed By Kathleen C. Hoyt, January 3, 2000

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Approved, Secretary of Administration

ATTACHMENT A - BLOODBORNE PATHOGENS AFFECTED CLASSES BY DEPARTMENT

Aging & Disabilities Department
Public Health Nurse Surveyor A & B
Public Health Surveyor Specialist
Social Worker B

Corrections Department
Casework Supervisor - Facilities
Correctional Facilities Shift Supervisor
Correctional Foreman A
Correctional Foreman B - Furniture
Correctional Foreman B - Metal Fabrication
Correctional Foreman B - Printing

Correctional Foreman B - Wood Products
Correctional Foreman C - Industrial Shop
Correctional Foreman C - Printing, Graphics
Correctional Health Care Specialist A
Correctional Health Care Specialist B
Correctional Officer I
Correctional Officer II
Correctional Officer III
Correctional Security & Operations Supervisor
Corrections Infirmary Attendant
Corrections Medical Services Coordinator
Corrections Services Specialist - Facilities
Corrections Services Specialist - Probation & Parole
Corrections Services Specialist Trainee
Intensive Supervision Probation & Parole Office
Patient Care Intern
Practical Nurse
Probation & Parole Officer

Fish & Wildlife
Chief Game Warden
Deputy Game Warden
Firearm Hunter Safety Chief
Game Warden
Game Warden District Chief
Game Warden Trainee
Game Warden Administrative Lieutenant
Hunter Firearm Safety Coordinator

Forests, Parks & Recreation
Day Use Ranger
Lifeguard 1
Lifeguard 2
Lifeguard3
Park Maintenance Technician
Park Ranger 1
Park Ranger 2
Park Ranger 3
Park Ranger 4
Regional Parks Maintenance Supervisor

Health Department
Assistant Director of Laboratories - Chemistry
Assistant Director of Laboratories - Microbiology
Chemist A - Public Health
Chemist B - Public Health

Chemist Specialist - Health
Chemist Trainee
Chief Medical Examiner
Clinic & X-Ray Technician
Dental Health Field Supervisor
Deputy Chief Medical Examiner
Director, Children with Special Health Needs
Director, Dental Health Services
District Office Clerk II
Emergency Medical Services Director
Emergency Medical Services Field Rep.
Emergency Medical Services Specialist - Operations
Emergency Medical Services Specialist - Training
Epidemiologist
Epidemiologist Associate
Epidemiologist Associate Trainee
Epidemiology Field Unit Chief
Epidemiology Programs Administrator
Health Programs Outreach Specialist
Health Programs Outreach Specialist Supervisor
Health Services District Director
Laboratory Section Supervisor - Chemistry
Laboratory Section Supervisor - Microbiology
Laboratory Technical Services Supervisor
Laboratory Technician I
Laboratory Technician II
Laboratory Technician Trainee
Microbiologist A
Microbiologist B
Microbiologist Trainee
Nurse Practitioner - Child Development
Pediatric Nurse
Public Health Dentist
Public Health Epidemiologist
Public Health Laboratory Director
Public Health Nurse
Public Health Nurse Epidemiologist
Public Health Nursing Supervisor
Public Health Physician
Public Health Programs Chief - AIDS
Public Health Program Coordinator - AIDS
Public Health Program Coordinator - Hepatitis
Senior Chemist
STD Intervention Specialist

Liquor
Director, Enforcement and Licensing
Liquor Control Investigator

Military Department
Airport Fire Chief
Airport Fire Fighter
Airport Fire Fighter Assistant Chief
Airport Fire Fighter Captain
Airport Fire Fighter Crew Chief

Personnel
Wellness Program Nurses

Public Safety Department
Auxiliary State Trooper
Forensic Chemist
Lieutenant
Public Safety Evidence Technician
Public Safety Forensic Lab Supervisor
Public Safety Forensic Laboratory Specialist
Senior Forensic Chemist
Senior Trooper - Outpost
Senior Trooper - Station & Other
Sergeant
Trooper 1/C - Outpost
Trooper 1/C - Station
Trooper 2/C

Social & Rehab. Services Department
Administrative Assistant A
Cook C
Woodside Clinical & Education Services Specialist
Woodside Programs Service Supervisor
Woodside Youth Center Director
Woodside Youth Center Instructor
Woodside Youth Center Team Supervisor
Woodside Youth Center Worker A
Woodside Youth Center Worker B

State's Attorneys and Sheriffs
Deputy Sheriffs
State's Attorneys Criminal Investigators

Transportation
Commercial Vehicle Enforcement Officer

Motor Vehicle Chief Inspector
Motor Vehicle Inspector B
Motor Vehicle Inspector Supervisor

Vermont State Hospital
Activity Therapist
Activity Therapy Chief
Cook A
Cook B
Cook C
Custodian A
Custodian B
Custodian C
Food Service Coordinator
Food Service Assistant
VSH Housekeeper
Nursing Services Supervisor
Patient Care Intern
Physician
Practical Nurse
Psychiatric Aide
Psychiatric Aide Trainee
Psychiatric Social Worker
Psychiatric Technician A
Psychiatric Technician B
Psychiatric Technician Occupational Therapy Specialist
Psychiatric Technician Physical Therapy Specialist
Psychiatric Technician Team Specialist
Psychiatric Technician Transport Specialist
Psychologist
Social Worker Therapy Chief - Occupational Therapy
VSH Ancillary Services Technician
VSH Direct Care Registered Nurse
VSH Social Service Chief
Ward Aide
X-Ray Technician

Vermont State Hospital Non-employees:
Psychiatrists
OT Interns
Social Worker Interns
Occupational Therapy Interns

Vermont Veterans Home
Activities Aide
Activity Director

Consultant Dietician
Cook
Dietician
Dietary Aide
Director of Housekeeping
Director of Nursing Services
Food Services Manager
Laundry Worker
Maintenance Worker
Nurse, General Duty
Nursing Assistant
Physical Therapist
Physical Therapy Aide
Practical Nurse
Social Worker A
Social Worker C
Staff Development Coordinator
Therapist B - Behavior Modification
Transport Aide
Veterans Home Gerontological Nurse
Veterans Home Nursing Supervisor
Veterans Home LPN Charge Nurse

ATTACHMENT B - BLOODBORNE PATHOGENS EXPOSURE CONTROL PLAN

Sample Plan: This sample plan is provided only as a guide to assist in complying with 29 CFR 1910.1030, OSHA's Bloodborne Pathogens standard. It is not intended to supersede the requirements detailed in the standard. Departments should review the standard for particular requirements which are applicable to their specific situation. Departments will need to add information relevant to their particular facility in order to develop an effective, comprehensive exposure control plan. Departments should note that the exposure control plan is expected to be reviewed at least on an annual basis and updated when necessary. Questions and review of specific exposure control plans should be directed to the Vermont Occupational Safety and Health Administration (VOSHA) at 828-2886.

Department Name: _____

Date of Preparation: _____

Prepared By: _____

In accordance with the OSHA Bloodborne Pathogens standard, 29 CFR 1910.1030, the following exposure control plan has been developed:

1. **Exposure Determination**

OSHA requires employers to perform an exposure determination concerning which employees may incur occupational exposure to blood or other potentially infectious materials. The exposure determination is made without regard to the use of personal protective equipment (i.e. employees are considered to be exposed even if they wear personal protective equipment). This exposure determination is required to list all job classifications in which all employees may be expected to incur such occupational exposure, regardless of frequency. At this facility the following job classifications are in this category: **(Insert job classifications.)**

In addition, OSHA requires a listing of job classifications in which some employees may have occupational exposure. Since not all the employees in these categories would be expected to incur exposure to blood or other potentially infectious materials, tasks or procedures that would cause these employees to have occupational exposure are also required to be listed in order to clearly understand which employees in these categories are considered to have occupational exposure. The job classifications and associated tasks for these categories are as follows: **(Insert job classification and tasks/procedures.)**

Job Classification

Tasks/Procedures

2. **Implementation Schedule and Methodology**

OSHA also requires that this plan include a schedule and method of implementation for the various requirements of the standard. The following complies with this requirement.

<u>Compliance Methods</u>

Universal precautions will be observed in this facility in order to prevent contact with blood or other potentially infectious materials. All blood or other potentially infectious material will be considered infectious regardless of the perceived status of the source individual.

Engineering and work practice controls will be utilized to eliminate or minimize exposure to employees at this facility. Where occupational exposure remains after institution of these controls, personal protective equipment shall also be

utilized. The following engineering controls will be utilized at this facility: (**List controls such as sharps, containers, etc.)**

The above controls will be examined and maintained on a regular schedule The schedule for reviewing the effectiveness of the controls is as follows: **(List schedule such as daily, one a week, etc., as well as listing who has the responsibility to review the effectiveness of the individual controls, such as the supervisor for each department, etc.)**

Handwashing facilities are also available to the employees who incur exposure to blood or other potentially infectious materials. OSHA requires that these facilities be readily accessible after incurring exposure. At this facility handwashing facilities are located: **(List locations, such as patient rooms, procedure area, etc. If handwashing facilities are not feasible, the department is required to provide either an antiseptic cleanser in conjunction with a clean cloth, paper towels or antiseptic towelettes. If these alternatives are used, then the hands are to be washed with soap and running water as soon as feasible. Departments who must provide alternatives to readily accessible handwashing facilities should list the location, tasks and responsibilities to ensure maintenance and accessibility of these alternatives.)**

After removal of personal protective gloves, employees shall wash hands and any other potentially contaminated skin area immediately or as soon as feasible with soap and water.

If employees incur exposure to their skin or mucous membranes then those areas shall be washed or flushed with water as appropriate as soon as feasible following contact.

Needles

Contaminated needles and other contaminated sharps will not be bent, recapped, removed, sheared or purposely broken. OSHA allows an exception to this if the procedure would require that the contaminated needle be recapped or removed and no alternative is feasible and the action is required by the medical procedure. If such action is required, then the recapping or removal of the needle must be done by the use of a mechanical device or a one-handed technique. At this facility recapping or removal is only permitted for the following procedures: **(List the procedures and also list the mechanical device to be used or alternately if a one-handed technique will be used.)**

Containers for Reusable Sharps

Contaminated sharps that are reusable are to be placed immediately, or as soon as possible, after use into appropriate sharps containers. At this facility the sharps containers are puncture resistant, labeled with a biohazard label, and are

leak proof. **(List here where sharps containers are located as well as who has responsibility for removing sharps from containers and how often the containers will be checked to remove the sharps.)**

Work Area Restrictions

In work areas where there is a reasonable likelihood of exposure to blood or other potentially infectious materials, employees are not to eat, drink, apply cosmetics or lip balm, smoke, or handle contact lenses. Food and beverages are not to be kept in refrigerators, freezers, shelves, cabinets, or on counter tops or bench tops where blood or other potentially infectious materials are present.

Mouth pipetting/suctioning of blood or other potentially infectious materials is prohibited.

All procedures will be conducted in a manner which will minimize splashing, spraying, splattering, and generation of droplets of blood or other potentially infectious materials. Methods which will be employed at this facility to accomplish this goal are: **(List methods, such as covers on centrifuges, usage of dental dams if appropriate, etc.)**

Specimens

Specimens of blood or other potentially infectious materials will be placed in a container which prevents leakage during the collection, handling, processing, storage, and transport of the specimens.

The container used for this purpose will be labeled or color coded in accordance with the requirements of the OSHA standard. **(Departments should note that the standard provides for an exemption for specimens from the labeling/color coding requirement of the standard provided that the facility utilizes universal precautions in the handling of all specimens and the containers are recognizable as containing specimens. This exemption applies only while the specimens remain in the facility. If the employer chooses to use this exemption then it should be stated here.)**

Any specimen which could puncture a primary container will be placed within a secondary container which is puncture resistant. **(The department should list here how this will be carried out, e.g. which specimens, if any, could puncture a primary container, which containers can be used as secondary containers, and where the secondary containers are located in the facility.)**

If outside contamination of the primary container occurs, the primary container shall be placed within a secondary container which prevents leakage during the handling, processing, storage, transport, or shipping of the specimen.

Contaminated Equipment

Equipment which has become contaminated with blood or other potentially infectious materials shall be examined prior to servicing or shipping and shall be decontaminated as necessary unless the decontamination of the equipment is not feasible. **(Departments should list here any equipment which it is felt can not be decontaminated prior to servicing or shipping.)**

Personal Protective Equipment

All personal protective equipment used at this facility will be provided without cost to employees. Personal protective equipment will be chosen based on the anticipated exposure to blood or other potentially infectious materials. The protective equipment will be considered appropriate only if it does not permit blood or other potentially infectious materials to pass through or reach the employees' clothing, skin, eyes, mouth, or other mucous membranes under normal conditions of use and for the duration of time which the protective equipment will be used.

Protective clothing will be provided to employees in the following manner: **(List how the clothing will be provided to employees, e.g. who has responsibility for distribution, etc. and also list which procedures would require the protective clothing and the type of protection required, this could also be listed as an Attachment to this program.)**

Sample checklist:
Personal Protective Equipment -- Task

- Gloves
- Lab Coat
- Face Shield
- Clinic Jacket
- Protective Eyewear (with solid side shield)
- Surgical Gown
- Shoe Covers
- Utility Gloves
- Examination Gloves
- Other PPE (list)

All personal protective equipment will be cleaned, laundered, and disposed of by the employer at no cost to employees. All repairs and replacements will be made by the employer at no cost to employees.

All garments which are penetrated by blood shall be removed immediately or as soon as feasible. All personal protective equipment will be removed prior to leaving the work area. The following protocol has been developed to facilitate

leaving the equipment at the work area: **(List where employees are expected to place the personal protective equipment upon leaving the work area, and other protocols, etc.)**

Gloves shall be worn where it is reasonably anticipated that employees will have hand contact with blood, other potentially infectious materials, non-intact skin, and mucous membranes. Gloves will be available from **(state location and/or person who will be responsible for distribution of gloves)**. Gloves will be used for the following procedures: **(List procedures.)**

Disposable gloves used at this facility are not to be washed or decontaminated for re-use and are to be replaced as soon as practical when they become contaminated or as soon as feasible if they are torn, punctured, or when their ability to function as a barrier is compromised. Utility gloves may be decontaminated for re-use provided that the integrity of the glove is not compromised. Utility gloves will be discarded if they are cracked, peeling, torn, punctured, or exhibit other signs of deterioration or when their ability to function as a barrier is compromised.

Masks in combination with eye protection devices, such as goggles or glasses with solid shield, or chin length face shields, are required to be worn whenever splashes, sprays splatter, or droplets of blood or other potentially infectious materials may be generated and eye, nose, or mouth contamination can reasonably be anticipated. Situations at this facility which would require such protection are as follows: **(List here.)**

The VOSHA standard also requires appropriate protective clothing to be used, such as lab coats, gowns, aprons, clinic jackets, or similar outer garments. The following situations require that such protective clothing be utilized: **(List here.)**

This facility will be cleaned and decontaminated according to the following schedule: **(List area and schedule.)**

Decontamination will be accomplished by utilizing the following materials: **(List the materials which will be utilized, such as bleach solutions or EPA registered germicides.)**

All contaminated work surfaces will be decontaminated after completion of procedures and immediately or as soon as feasible after any spill of blood or other potentially infectious materials, as well as the end of the work shift if the surface may have become contaminated since the last cleaning. **(Departments should add in any information concerning the usage of protective coverings, such as plastic wrap which they may be using to assist in keeping surfaces free of contamination.)**

All bins, pails, cans, and similar receptacles shall be inspected and decontaminated on a regularly scheduled basis (**List frequency and by whom.)**

Any broken glassware which may be contaminated will not be picked up directly with the hands. The following procedures will be used: **(List here.)**

Regulated Waste Disposal

All contained sharps shall be discarded as soon as feasible in sharps containers which are located in the facility. Sharps containers are located in **(Specify locations of sharps containers.)**

Regulated waste other than sharps shall be placed in appropriate containers. Such containers are located in **(Specify locations of containers.)**

Laundry Procedures

Laundry contaminated with blood or other potentially infectious materials will be handled as little as possible. Such laundry will be placed in appropriately marked bags at the location where it was used. Such laundry will not be sorted or rinsed in the area of use.

All employees who handle contaminated laundry will utilize personal protective equipment to prevent contact with blood or other potentially infectious materials.

Laundry at this facility will be cleaned at: **(List here.) (Departments should note here if the laundry is being sent off site. If the laundry is being sent off site, then the laundry service accepting the laundry is to be notified, in accordance with section (d) of the Federal standard.)**

Hepatitis B Vaccine

All employees who have been identified as having exposure to blood or other potentially infectious materials will be offered the Hepatitis B vaccine, at no cost to the employee. The vaccine will be offered within 10 working days of their initial assignment to work involving the potential for occupational exposure to blood or other potentially infectious materials unless the employee has previously had the vaccine or who wishes to submit to antibody testing which shows the employee to have sufficient immunity.

Employees who decline the Hepatitis B vaccine will sign a waiver which uses the wording in Attachment A of the State of Vermont Policy on Bloodborne Pathogens.

Employees who initially decline the vaccine but who later wish to have it may then have the vaccine provided at no cost. **(Departments should list here who**

has responsibility for assuring that the vaccine is offered, the waivers are signed, etc. Also, the department should list who will administer the vaccine.)

Post-Exposure Evaluation and Follow-Up

When the employee incurs an occupational exposure incident, it should be reported to: **(List who has responsibility to maintain records of exposure incidents.)**

All employees who incur an exposure incident will be offered post-exposure evaluation and follow-up in accordance with the OSHA standard. This follow-up will include the following:

- The exposure should be treated as a Worker's Compensation incident. The supervisor should complete an Employer's First Report of Injury form and the employee should contact the Vermont Health Care Review, Inc. to report his or her injury (1-800-639-8039).
- Documentation of the route of exposure and the circumstances related to the incident.
- If the source individual can be determined, obtain written consent from the individual to allow his or her health care provider to share his or her HIV/HBV status with the employee's health care provider. If the source individual consents and requires any laboratory tests or physical exam, the employer will arrange for payment of any charges.
- Results of testing of the source individual may be made available to the exposed employee with the exposed employee informed about the applicable laws and regulations concerning disclosure of the identity and infectivity of the source individual. **(Departments may need to modify this provision in accordance with applicable local laws on the subject. Modifications should be listed here.)**
- The employee will be offered the option of having his or her blood collected for testing of the employee's HIV/HBV serological status. The first sample only tells the employee his or her status prior to the incident. The employee will be offered the option of being retested at 6 months post exposure for evidence of the impact of the exposure incident. The blood sample will be preserved for up to 90 days to allow the employee to decide if the blood should be tested for HIV serological status. However, if the employee decides prior to that time that testing will or will not be conducted, then the appropriate action can be taken and the blood sample discarded.
- The employee will be offered post-exposure prophylaxis in accordance with the current recommendations of the U.S. Public Health Service. These recommendations are currently as follows: **(These recommendations may be listed as an Attachment to the plan.)**

- The employee will be given appropriate counseling concerning precautions to take during the period after the exposure incident. The employee will also be given information on what potential illnesses to be alert for and to report any related experiences to appropriate personnel.
- The following person(s) has been designated to assure that the policy outlined here is effectively carried out as well as to maintain records related to this policy: **(List name.)**

Interactions with Health Care Professionals

A written opinion shall be obtained from the health care professional who evaluates employees of this facility. Written opinions will be obtained in the following instances:

1. when the employee is sent to obtain the Hepatitis B vaccine;
2. whenever the employee is sent to a health care professional following an exposure incident.

Health care professionals shall be instructed to limit their opinions to:

1. whether the Hepatitis B vaccine is indicated and if the employee has received the vaccine, or for evaluation following an incident;
2. that the employee has been informed of the results of the evaluation; and
3. that the employee has been told about any medical conditions resulting from exposure to blood or other potentially infectious materials. (Note that the written opinion to the employer is not to reference any personal medical information).

Training

Training for all employees will be conducted prior to initial assignment to tasks where occupational exposure may occur. Training will be conducted in the following manner and will include an explanation of:

1. The OSHA standard for Bloodborne Pathogens and how to obtain a copy of the Federal regulations.
2. Epidemiology and symptomatology of bloodborne diseases.
3. Modes of transmission of bloodborne pathogens.
4. This Exposure Control Plan, i.e. points of the plan, lines of responsibility, how the plan will be implemented, etc.
5. Procedures which might cause exposure to blood or other potentially infectious materials at this facility.
6. Control methods which will be used at the facility to control exposure to blood or other potentially infectious materials.
7. Personal protective equipment available at this facility and who should be contacted concerning emergencies.

8. Post Exposure evaluation and follow-up.
9. Signs and labels used at the facility.
10. Hepatitis B vaccine program at the facility.
11. Question and answer period.

Recordkeeping

All records required by the OSHA standard will be maintained by: **(Insert name or unit responsible for maintaining records.)**

Dates All provisions required by the standard will be implemented by: **(Insert date for implementation of the provisions of the standard.)**

(Departments should list here if training will be conducted using videotapes, written material, etc. Also, the employer should indicate who is responsible for conducting the training.)

All employees will receive annual refresher training. **(Note that this training is to be conducted within one year of the employee's previous training.)**

The outline for the training material is located: **(List where the training materials are located.)**

ATTACHMENT C - Hepatitis B Vaccine Declination

I understand that due to my occupational exposure to blood or other potentially infectious materials I may be at risk of acquiring hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with hepatitis B vaccine, at no charge to myself. However, I decline hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring hepatitis B, a serious disease. If in the future I continue to have occupational exposure to blood or other potentially infectious materials and I want to be vaccinated with hepatitis B vaccine, I can request and receive the vaccination series at no charge to me.

Section 18

EMPLOYEE EXPENSES

Number 18.0

Effective Date: March 1, 1996
Subject: **EMPLOYEE EXPENSES**
Revised Date: January 1, 2000

Applicable To: All classified employees, as well as exempt, appointed and temporary, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this policy is to outline the expenses for which employees may be reimbursed, and the method for requesting reimbursement.

Agency of Administration Bulletin 3.4 (See Appendix A) sets forth the Policy and Procedures for the reimbursement of expenses to State employees. Agency and department heads have considerable discretion with respect to assignment of employee activities that result in personal expense claims. Thus, the responsibility for authorizing employees to incur claims that are consistent with this policy and the regulations as set forth in Bulletin 3.4. remains with supervisors and managers within the reimbursing departments. The Commissioner of Personnel is required, by law, to enforce all regulations that pertain to any employee claims for reimbursement of expenses.

GENERAL GUIDELINES

Only actual and necessary expenses which are incurred in the conduct of the State's business by persons acting for the State shall be reimbursed. Among the expenses that may be reimbursed are: lodging, meals, telephone calls, moving expenses, interview expenses, mileage, parking, tolls, and taxis. Extra meals, coffee breaks, entertainment charges, and personal expenses are not reimbursable expenses.

The Secretary of Administration has the final decision in any dispute or question concerning travel at State expense, and (s)he may authorize in advance deviations (still necessarily consistent with negotiated agreements and statutes)

from these regulations when, in his or her judgment, such action is in the best interest of the State.

Agencies and departments should establish deadlines for employees to submit their expense accounts to avoid a long lapse in time until employees receive reimbursement for expenses incurred while conducting State business.

Please refer to the Expense and Mileage Reimbursement Article of the current Agreements Between the State of Vermont and the Vermont State Employees' Association, Inc. (VSEA) for more information. Contract provisions must be followed.

DOCUMENTATION

All claims for reimbursement must be fully justified and must be submitted on the State of Vermont Request for Reimbursement (form AAF8) (See Attachment A). Employees should check with their supervisors to determine what the agency/department internal deadlines are for processing expense accounts.

The responsibility for authorizing employees to incur claims that are entirely consistent with the regulations of Bulletin 3.4 remains with supervisors and managers within the reimbursing agency or department. Managers may request that employees provide receipts for all expenses incurred. If receipts are going to be required, the employee should be so notified prior to incurring the expense

Section 18.00 - Allowable Expenses

When an employee is away from home and the office on official duties, (s)he will be reimbursed for actual expenses incurred for travel accommodations, certain meals, postage, parking, tolls, telephone, telegraph, express mail, and other incidentals. Expenses are paid from the appropriation of the employee's department.

The Expense Reimbursement Article of the current contract states the maximum allowable reimbursement for meals.

Expenses incurred on an employee's day off will only be reimbursed provided that the Department of Personnel has: (1) recorded some form of compensation for hours worked on the day for which the employee is claiming expenses; or (2) the employee incurred the expense in travel on State business.

Section 18.01 - Lodging and Meals

Employees can only be reimbursed for <u>actual</u> meal expenses, up to the maximum amount set forth in the contract.

Many lodging facilities provide a special government rate, a reduction of the normal charges, to government employees. All State employees must request the government rate for lodging, if applicable.

Reimbursement for lodging is limited to the rate charge of a single room. Double rooms offered at a single room rate will be considered single rooms.

If an employee is required to attend a business meeting after normal working hours and the time between the meeting and the employee's quitting time is so short that it is not reasonable for them to travel to their residence for a meal, the employee may request and receive reimbursement for his or her meal, even though it is taken at a work station. The request must either be signed by the agency/department head, or include the agency/department head's prior approval.

Breakfast will normally only be reimbursed on the morning following a reimbursable overnight stay, or in extraordinary circumstances such as when departing home before 5:30 a.m. to attend a meeting.

Dinner will be reimbursed when an employee is eligible to claim lodging, or when required to work beyond the normal dinner hour. Normally, an employee will not receive more than one meal during any eight (8) hour period unless (s)he is required to work overtime at least four (4) hours, away from home or regular duty station.

No reimbursement will be allowed for the cost of alcoholic beverages.

Section 18.02 - Mileage Allowance

Employees are entitled to be reimbursed for use of a privately owned vehicle at the rate established by the federal General Services Administration (GSA), for authorized automobile mileage actually and necessarily traveled in the performance of official duties. This rate changes periodically. For the current rate of mileage reimbursement, contact your personnel officer.

When at all possible, State employees should use State vehicles for travel. Gas for State vehicles can be purchased at Agency of Transportation district garages and at Vermont State Police barracks at a less expensive rate than from private businesses.

No reimbursement will be made for fares paid by a State employee to another State employee who is receiving reimbursement for mileage for the use of his or her vehicle.

Signed By Kathleen C. Hoyt, January 3, 2000

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Approved, Secretary of Administration

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Employee's Name (Print)

_____

Signature of Employee -- Date

Section 19

VERMONT STATE EMPLOYEES CREDIT UNION

Number 19.0

Effective Date: March 1, 1996

Subject: VERMONT STATE EMPLOYEES CREDIT UNION

Applicable To: All classified employees, as well as exempt and appointed, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

GENERAL INFORMATION

The Vermont State Employees Credit Union is a full-service, non-profit financial institution owned and controlled by its members. Founded in 1947, it is governed by an eleven member Board of Directors, three member Credit Committee and three member Supervisory Committee, all of whom volunteer their time and efforts so that members may benefit from quality financial services provided in the cooperative spirit of the Credit Union movement.

To become a member of the Vermont State Employees Credit Union, you must be an employee of the State of Vermont or related (by blood, marriage, or adoption) to a VSECU member. The VSECU charter also allows for employees of numerous State agencies, affiliations, associations, councils, and colleges to become members. A Member Service Representative can provide a complete list of all organizations within the field of membership.

Once an employee becomes a member, (s)he may continue to be a member of the VSECU even if (S)he or his or her relatives no longer work for the State and/or no longer live in the area.

The VSECU offers a broad range of services including savings, checking, automatic teller machines, payroll deduction, signature loans, credit cards, auto loans, and mortgages. The VSECU is continually looking for ways to improve service and products so they welcome and encourage the active involvement of its members.

The VSECU is incorporated under the laws of Vermont and operates in accordance with by-laws approved by the members. As a State chartered, federally insured Credit Union, the VSECU is subject to the rules and regulations

of the Vermont Department of Banking and the National Credit Union Administration (NCUA). Both agencies periodically conduct examinations of VSECU operations. In addition, the VSECU Supervisory Committee retains an independent accounting firm to conduct an annual audit of the Credit Union.

Members savings in the VSECU are federally insured to $100,000 by the NCUA, an agency of the U.S. Government.

The VSECU is a member of both the Credit Union National Association and the Vermont Credit Union League.

SERVICES OFFERED

Savings and deposit services offered by the VSECU:

- Membership Share Account
- Special Share Account and Billpayer Share Account
- Share Certificate of Deposits
- VSECU Share Draft Account
- VSECU ATM Card

Loan services offered by the VSECU:

- Loans for Members
- The Loanline Lending System
- VSECU Mortgage Loans
- VSECU Home Equity Loans
- VSECU Credit Card

Additional financial services available through the VSECU:

- Payroll Deductions
- Electronic Services
- Direct Deposit
- Member Insurance
- VSECU Travelers Cheques
- VSECU Money Orders
- Wire Transfers
- Notary Public Service
- Bank-by-Mail

FOR MORE INFORMATION

Each agency/department personnel officer should have information brochures, signature cards, and payroll deduction forms. The main office of the VSECU is

located at 1 Bailey Avenue, P.O. Box 67, Montpelier, VT, 05601, telephone 802-371-5160 or 800-371-5160.

HUMAN RIGHTS COMMISSION

Number 19.1

Effective Date: March 1, 1996

Subject: HUMAN RIGHTS COMMISSION

Applicable To: All classified employees, as well as exempt, appointed, and temporary, and applicants for employment, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

PURPOSE

These procedures explain the role of the Human Rights Commission.

DUTIES AND JURISDICTION

The Human Rights Commission consists of five members who are appointed by the Governor of Vermont. Through public education, the Commission's role is to increase awareness of the importance of full civil and human rights for each person in the State of Vermont. The Commission will determine if there are existing practices of discrimination that exist which detract from the enjoyment of full civil and human rights, and will make recommendations designed to protect those rights.

The Commission has jurisdiction to investigate and enforce complaints of unlawful employment discrimination, in violation of Vermont's Fair Employment Practices Act (21 VSA 495, et. seq.) when the person bringing the complaint is an employee of a State agency, and when the complaint alleges discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, ancestry, place of birth, age, or physical or mental disability. In addition, the Commission also has jurisdiction to investigate and enforce complaints of unlawful employment discrimination for State employees, when the complaint alleges a violation of Vermont's Maternity and Family Leave Act (21 VSA 470, et. seq.) or Workers' Compensation discrimination (21 VSA 710).

(In addition, the Commission enforces Vermont's civil rights laws prohibiting discrimination in the sale or rental of housing and in places of public accommodation, i.e. governmental offices, stores, restaurants, schools, etc.).

COMPLAINTS

A person who believes that (s)he has been subject to unlawful discrimination may file a complaint with the Commission. Upon receipt of a complaint, the Commission will make efforts to resolve the matter by informal means. The commission will conduct an investigation to determine whether there are reasonable grounds to believe that unlawful discrimination has occurred. If reasonable grounds are found, the Commission can file a lawsuit and seek relief for aggrieved individuals as well as injunctive relief and a civil penalty.

For further information contact:

Human Rights Commission
135 State Street, Drawer 33
Montpelier, VT 05633-6301
802-828-2480 (Voice/TDD)
Fax: 802-828-3206

VERMONT OCCUPATIONAL SAFETY AND HEALTH ACT (VOSHA)

Number 19.2

Effective Date: March 1, 1996

Subject: VERMONT OCCUPATIONAL SAFETY AND HEALTH ACT

Applicable To: All classified employees, as well as exempt, appointed and temporary, with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

GENERAL INFORMATION

The Vermont Occupational Safety and Health Act (VOSHA) ensures that all employees are provided with safe and healthful working conditions by their employer at their work place. The VOSHA office, a division of the Department of Labor and Industry, ensures that the purposes of the Occupational Safety and Health Act of 1970 are carried out.

It is the responsibility of each employer to furnish to each employee a work place that is free from recognized hazards that are causing or are likely to cause death or significant physical harm to the employees. The employer shall comply with safety and health standards as promulgated under the VOSHA code.

RULES AND STANDARDS

Employers will use labels or other appropriate forms of warning necessary to inform employees of all safety or health hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions for safe use or exposure.

VOSHA will determine when protective clothing, devices, or equipment should be provided by the employer; what control or technological procedures will be used in connection with the safety or health hazard; and will provide for monitoring or measuring employee exposure as necessary.

RECORDS

Employers are required to keep and file all reports and records that are required under the Act, and any records that the Commissioner requires by rule. These files should be kept by the appointing authority.

The employer must post notices on bulletin boards to keep employees informed of their protections and obligations under VOSHA.

EMPLOYEE RIGHTS

No employee may be discriminated against because they have filed a complaint or have been involved in any proceedings relating to the VOSHA code.

If an employee feels that (s)he has been discharged or discriminated against in violation of VOSHA (s)he may file a complaint with the Commissioner of Labor and Industry within 30 days of the alleged discrimination.

EMPLOYEE ASSISTANCE PROGRAM (EAP)

Number 19.3

Effective Date: March 1, 1996
Subject: **EMPLOYEE ASSISTANCE PROGRAM (EAP)**
Revised Date: July 1, 1999

Applicable To: All classified employees, as well as exempt and appointed with the Executive Branch of the State of Vermont

Issued By: Department of Personnel

Approved By: Kathleen C. Hoyt, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The State of Vermont believes it is in the best interest of its' employees, employees' families, and the State to provide an employee service that deals with personal or family problems. The EAP is a practical, confidential and constructive mechanism for dealing with employees' personal problems that may affect the work situation, or as an aid to those employees and their family members who wish to use the program as a means of resolving a personal problem.

It is recognized that a wide range of problems not directly associated with an employee's job function can have an effect on job performance. In most instances, the employee will overcome such personal problems independently, and the effect on job performance will be negligible. In some instances, normal supervisory assistance will serve either as motivation or as guidance by which such problems can be resolved, so that the employee's job performance will return to an acceptable level. In other cases, however, neither the effort of the employee nor an effort by both supervisor and employee have the desired effect of resolving the employee's problems and unsatisfactory job performance may persist over a period of time.

The program is being offered to all permanent State employees and their family members who reside with them, including bona fide domestic partners. It is our policy to handle such problems within the framework of an established policy and associated EAP procedures.

EAP PROCEDURES

1. The purpose of the Employee Assistance Program is to ensure that any employee having a personal problem will receive careful consideration

and an offer of confidential professional assistance. Almost any personal or family problem can be successfully treated provided it is identified in its early stages and referral is made to an appropriate professional. This applies whether the problem is one of physical, mental or emotional illness, finances, marital or family discord, alcoholism, drug abuse, legal or other concerns.

2. Employees who have a problems which they feel may affect work performance are encouraged to seek voluntary counseling and information from our EAP on a confidential basis by contacting the dedicated telephone number shown on the EAP brochure. Brochures are included in new employee orientation materials and were provided to all current employees in June, 1999. The program provides up to five sessions of counseling to attempt to reach some resolution of the presenting problems. If the counselor determines that the situation requires more extensive ongoing help, a referral will be made to a resource outside of the EAP that is best suited to meet the individual's specific needs. In making this referral, the counselor will work with the individual to attempt to find a resource that is covered by the employee's health insurance plan.
3. When an employee's job performance or attendance is unsatisfactory and the employee is unable or unwilling to correct the situation, either alone or with supervisory assistance, there is an indication that there may be some problematic cause outside of the realm of his/her job responsibilities. In these cases, the employee may be encouraged by the supervisor to contact the EAP program. If assistance is accepted, it will be the employee's responsibility to comply with referrals for diagnosis of the problems and to cooperate and follow the recommendations of the diagnostician or counseling agency. However, the decision to accept assistance through the Employee Assistance Program is the personal choice of the individual and any cost incurred beyond the EAP benefit will be the employees' responsibility. Should an employee's work performance continue to be unsatisfactory, their job performance problems will be handled through the appropriate channels as defined by the State's personnel policies and the labor contract with the bargaining unit.
4. Employees referred to and/or participating in the Employee Assistance Program are expected to meet existing job performance standards and established work rules. Participation in the EAP does not alter any expectations regarding job performance unless it is determined in consultation with the EAP that the employee may be unable to perform their job at the present time. If this is found to be the case, then alternatives may be explored.
5. All records pertaining to the EAP will be treated with the same high degree of confidentiality accorded to medical records. EAP records will not be disclosed to anyone other than the participating individual, except under a court order compelling disclosure or with a duly signed Release of Information from the individual.

6. Employees or family members seeking assistance will be able to do so with complete confidentiality. No information is released about an individual's involvement without the signed permission of the individual. The individual may, at his or her discretion, sign a release indicating the nature of the information to be released and the reasons for this disclosure.
7. Implementation of the policy will not require or result in any special regulations, privileges, or exemptions from the standard administrative practices. This program is not intended to supplant the normal disciplinary process or any contractual agreements negotiated with the Vermont State Employee' Association.

Signed By Kathleen C. Hoyt, August 6, 1999

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Approved, Secretary of Administration

Section 20

NEW EMPLOYEE ORIENTATION

Number 20.0

Effective Date: March 1, 1996

Subject: NEW EMPLOYEE ORIENTATION

Applicable To: All classified employees with the Executive Branch of the State of Vermont.

Issued By: Department of Personnel

Approved: William H. Sorrell, Secretary of Administration

PURPOSE AND POLICY STATEMENT

The purpose of this policy is to set forth procedures for developing orientation programs for new employees in all State agencies and departments.

The State of Vermont believes that it is important for all new employees to have an understanding of the organization in which they work, the policies and procedures applicable to them, and the benefits that they earn.

GENERAL GUIDELINES

Each agency/department is responsible for providing an orientation to State government to all of their new employees. It is up to each agency/department to establish their own procedures for new employee orientation. However, the information set forth in this policy must be included in each agency/department orientation program.

Agencies/departments should ensure that a copy of their procedures for new employee orientation be distributed to and inserted in this section of all Personnel Policies and Procedures Manuals assigned to their employees.

A check-list should be used by the personnel officer to ensure that all benefits are discussed; copies of policies are provided to the employee; and forms are distributed and completed in a timely manner. A *New Employee Orientation Check-List* form (see Attachment A) can be used by departments or modified as necessary.

It is recommended that the personnel officer be the person responsible for providing new employee orientation. This orientation should be conducted within the first week of employment.

All benefits, as well as State and agency/department policies should be discussed with employees during orientation. Additionally, appropriate forms should be distributed to employees at this time. These must include the following information:

- Annual, Personal, and Sick Leave
- Credit for Prior Classified and Temporary Service
- Deferred Compensation Plan
- Flexible Spending Accounts
- Holidays
- Medical, Dental, and Life Insurance
- Payroll Deduction Forms
- Probationary Period
- Prior Classified Service Application
- Prior Temporary Service Application
- Retirement Plan
- Training and Tuition Reimbursement
- Vermont State Employees' Association, Inc.
- Vermont State Employees' Credit Union

In addition, copies of the following policies must be given to employees:

- Bloodborne Pathogens Policy
- Confidentiality Policy
- Drug-Free Workplace Policy
- EEO/Affirmative Action Policy
- Reasonable Accommodation Policy
- Statewide Smoking Policy
- Sexual Harassment Policy

You may want to include the following agency/department specific policies and programs such as:

- Coffee/Lunch Breaks
- Merit Pay Policy

ATTACHMENT A - NEW EMPLOYEE ORIENTATION CHECKLIST
FORMS TO BE COMPLETED

____ Employment Application

____ I-9

____ W-4

____ Payroll Deduction Application

____ Benefits Enrollment Application

____ Medical Premium Pretax Form

____ Prior Classified Service Application

____ Prior Temporary Service Application

____ Temporary Employment Statement

POLICIES

____ Bloodborne Pathogens

____ CDL Drug Testing (if applicable)

____ Conflicts of Interest Arising from Employment/Nepotism

____ Drug-Free Workplace

____ EEO/Affirmative Action

____ Political Activity

____ Reasonable Accommodation

____ Sexual Harassment

____ Smoking

DEPARTMENT SPECIFIC INFORMATION
Agency/Dept. Work Rules
Coffee/Lunch Breaks
Telephone Listings

EMPLOYEE BENEFITS
Group Health Insurance
a) Choice Plus Indemnity Plan
b) Community Health Plan (CHP)
Dental Insurance
Life Insurance
TaxSaver Option Plan

COBRA Notification
Retirement Plan
Domestic Partners

OTHER INFORMATION
Alternative Work Schedules
Credit for Prior Classified or Temporary Service
Class Specification
Deferred Compensation Program
Dual Employment
Employee Assistance Program
Extension of Benefits Memo (if applicable)
Holiday/Leave Benefits
Original Probationary Period
Performance Standards
Personnel Rules and Regulations
Time Reports/Expense Accounts
Tuition Reimbursement Program
Vermont State Employees' Assoc.
VT State Employees' Credit Union
Workers' Compensation