

Should independent town officers be exempt from the town personnel policies?

It depends how “independent” they are. If they work full-time for the town, receive benefits such as health insurance and retirement contributions, and are compensated via the general fund, it is reasonable to expect that they comply with the personnel policies of the town.

The only areas where “full-time independent officers” should be treated differently from employees is in the discipline and dismissal sections, from which they should be exempt. This is because if they exhibit behavior that is inconsistent with town personnel policies, it is, of course, up to the voters to decide whether the officer should be re-elected. However, this lack of enforcement ability is no reason to exempt independent officers from the expectations that apply to everybody else who works for the town.

A possible exception to this general rule is independent officers who are compensated entirely by fees, and who receive none of the additional benefits traditionally reserved for employees such as health insurance. One example is the collector of delinquent taxes, who is usually compensated exclusively by delinquency penalties. Yet even here, the collector receives general liability insurance coverage from the town and there is no reason why the collector should not be included in policies that address sexual harassment, use of town facilities, etc.

One way to handle the varying degrees of independence among town officers is to establish four classifications within the personnel policies: employees, full-time independent officers, appointees of independent officers, and volunteers. Volunteers would include members of boards and commissions and very part-time elected officials whose compensation is more akin to a stipend than a wage or salary. Examples include selectboard members, justices of the peace, planning commission members, etc. Using these classifications, personnel policies could distinguish between provisions that apply to some, such as payroll procedures, and provisions that should apply to all, such as a sexual harassment policy.

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For assistance drafting and reviewing personnel policies, contact the Municipal Assistance Center.

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