

BOARD OF SELECTMEN'S POLICY RELATING TO  
GRANTING OF SPECIAL MUNICIPAL EMPLOYEE STATUS  
TO POSITIONS, COMMITTEES AND BOARDS  
PURSUANT TO MGL Ch. 268A

RATIONALE:

In general, the provisions of Massachusetts General Laws Chapter 268A, Section 17 prohibit a municipal employee from receiving compensation from or acting as agent or attorney for anyone other than the Town in a matter in which the Town has a direct and substantial interest. The Board is aware of the fact that the State Ethics Commission defines "municipal employee" as any person that provides services to the Town, regardless of how that person was hired, elected or appointed, or whether the person receives compensation for his/her services. The Board understands that the State Ethics Commission would find that virtually any matter which comes before a particular board or official which requires official action is a matter in which the Town has a direct and substantial interest. The provisions of Massachusetts General Laws Chapter 268A, Section 17 are intended to prevent divided loyalties and any appearance of unfair or special advantage.

As the State Ethics Commission states, cities and towns are entitled to undivided loyalty by their municipal employees. The Board of Selectmen strongly believes that in order to promote public confidence in the administration of the town government a municipal employee's loyalty must lie first with the Town and that Special Municipal Employee status should be granted only in very limited circumstances. The Board is of the opinion that in general, positions, committees, and boards that set public policy, have regulatory authority or have appointing authority should not be granted Special Municipal Employee status.

The Board of Selectmen also believes that there are occasional circumstances that can arise where a position, board or committee may benefit from a person's expertise or knowledge in a particular field or profession. In those limited circumstances Special Municipal Employee status *may* be warranted.

Under Massachusetts General Laws Chapter 268A, the Board of Selectmen may grant Special Municipal Employee status to a position, board or committee at any time and the Board may also revoke that status at any time. It is the municipal position that is designated as having Special Municipal Employee status, not the person holding the position. Therefore, all members of a board or committee holding the same office are considered Special Municipal Employees if the designation is granted by the Board of Selectmen.

POLICY:

1. Any person(s) holding an elected or appointed position or serving as a member of an elected or appointed committee or board may file a written request with the Board of Selectmen seeking designation of such position, committee or board as a Special Municipal Employee(s).
2. Any such request shall be made a part of the agenda of a regularly scheduled meeting of the Board of Selectmen.

3. The person(s) making such a request shall appear at the scheduled meeting of the Board of Selectmen to present such request. The person(s) making the request shall present to the Board of Selectmen the rationale for such request. The presentation shall include a demonstration of the need the position, committee or board has for the skills or professional knowledge that the person making the request possesses. Additionally, the presentation shall include how those skills or professional knowledge will benefit the position, committee or board as well as benefit the overall interests of the Town.

4. The Board of Selectmen shall consider the request and a vote shall be taken on the request. The granting of such status shall be by a majority vote of the Board.

5. Requests for Special Municipal Employee status will be voted upon individually for each position, committee or board requesting such status, expressly naming the position, committee or board being designated.

~~6. If Special Municipal Employee Status is granted to the position, committee or board, then annually, no later than May 25, any person intending to retain such status for the position, committee or board, shall resubmit a request to the Board of Selectmen for Special Municipal Employee status. The Board shall review and act upon the request in accordance with Paragraph 2 through Paragraph 5 of this policy at its first meeting in June. Additionally, a~~ At the first meeting of the Board of Selectmen in June, the Board shall review the list of positions, committees and boards granted Special Municipal Employee status to ensure compliance with this policy. At such meeting the Board shall vote to continue the status or revoke the status. The vote to continue the status or to revoke the status shall be by majority vote of the Board. Votes shall be taken individually for each position, committee or board, expressly naming the position, committee or board. A list of Special Municipal Employees shall be forwarded to the Town Clerk and the State Ethics Commission any time Special Municipal Employee status is granted or revoked by the Board and at least annually.

7. Upon the appointment or election, reappointment or re-election, of a town governmental official, such official shall complete a form requesting or declining Special Municipal Employee Status and submit such form to the Board of Selectmen within 10 days of appointment/re-appointment or election/re-election. Such form shall be completed whether or not the committee or position to which the official has been appointed/reappointed or elected/re-elected currently has Special Municipal Employee status. If such official does request Special Municipal Employee status he/she shall state the reasons why such status is being requested in accordance with Paragraph 3 of this Policy. The Selectmen shall review the requests at a public meeting within 30 days of their submittal and act on them in accordance with this policy.

8. The Board of Selectmen may revoke Special Municipal Employee status at their discretion as deemed in the best interest of the town and in accordance with this policy.

Adopted: Abington Board of Selectmen  
October 15, 2012