

**11009. RESOLUTION 15-34 – AUTHORIZING AMENDMENTS TO THE DELAWARE RIVER AND BAY AUTHORITY’S PERSONNEL MANUAL – REVISED DEFINITIONS OF EMPLOYEE CLASSIFICATIONS**

WHEREAS, the Delaware River and Bay Authority (the “Authority”) periodically reviews its Personnel Manual for compliance with laws, policy and practices; and

WHEREAS, the Chief Human Resources Officer has presented to the Personnel Committee recommended revisions to the employee classifications section of the Personnel Manual to align with current employment practices; and

WHEREAS, the Chief Human Resources Officer has presented to the Personnel Committee recommended revisions to definitions of temporary employees referred to as Seasonal and Casual employees to be consistent with the definitions of such employees in the Patient Protection and Affordable Care Act (PPACA) of 2010 that went into effect January 1, 2015; and

WHEREAS these revisions have been reviewed by the Personnel Committee and the Personnel Committee supports the changes to amend the definitions in the employee classifications section of the Personnel Manual.

NOW, THEREFORE, BE IT RESOLVED that the Delaware River and Bay Authority hereby approves the following modifications to the Delaware River and Bay Authority Personnel Manual effective January 1, 2015:

The introductory portion of Section IV of the Personnel Manual will be revised in its entirety to read as follows:

Unless otherwise provided in a particular Section following, for purposes of this Personnel Manual:

“EMPLOYEE” shall mean any person employed on salary or wage by the Authority. An Employee may be classified as “Probationary,” “Permanent Full-Time,” “Seasonal or Part-Time,” “Casual,” or “Permanent Part-time.” For purposes of this manual, regular employment shall mean permanent full-time or permanent part-time employment.

Section IV A (A “PROBATIONARY EMPLOYEE”) of the Personnel Manual will be revised in its entirety to read as follows:

Probationary Employee: Except for Authority Police Officers, the first six (6) months of employment for a full-time employee shall be a probationary period during which the individual’s work performance will be evaluated. For Authority Police Officers, the probationary period shall be one (1) year. The probationary period may be extended at the discretion of the Executive Director or his/her designee based on the recommendation of the Department Head.

Except as provided under a collective bargaining agreement or as required by law, the Authority shall have the right to terminate an employee at any time during the probationary period for any lawful reason. Except as provided under a collective bargaining agreement or as required by law, the employee shall not have the right to grieve such a decision by the Authority.

At least ten calendar (10) days prior to the expiration of the employee's probationary period, the Department Head shall advise the Executive Director or his/her designee as to the performance of the employee during the probationary period. The Department Head shall recommend: (a) that the employee's employment be continued; (b) an extension of the probationary period; or (c) that the employee's employment not be continued. Normally, an employee shall not be retained beyond the probationary period without a positive recommendation of his/her immediate supervisor. The recommendation by the Department Head shall not be final until it is reviewed and approved by the Executive Director or his/her designee.

Section IV C (A "PERMANENT PART-TIME EMPLOYEE") is an employee designated as such, who is employed on a regular and continuous basis but requires less than full-time year round employment.

Section IV D (A "SEASONAL OR PART-TIME EMPLOYEE") of the Personnel Manual will be revised in its entirety to read as follows:

1. Seasonal Employee – A temporary employee who is hired to work a peak "seasonal" period for up to six (6) consecutive months with no limit on hours worked per week. The six (6) month season is pre-determined and does not change by location. A seasonal employee must incur at least a 13-week consecutive break with zero (0) hours worked since the end of his/her last seasonal employment period and may not return to employment until the following year's "seasonal" period begins.

Section IV E (A "CASUAL EMPLOYEE") of the Personnel Manual will be revised in its entirety to read as follows:

Casual Employee – A temporary employee who is not a seasonal employee and who may be hired to work up to 12 consecutive months out of the year at no greater than 28 hours/week on average.

Section IV F (A "SPECIAL EMPLOYEE") of the Personnel Manual will be removed in its entirety.

All references in the Personnel Manual to "Seasonal or Part-time Employee" shall be amended to "Seasonal Employee" and all references to "Special Employee" shall be deleted in their entirety."

A motion to approve Resolution 15-34 was made by Commissioner Wilson, seconded by Commissioner Dorn, and approved by a roll call vote of 9-0.

## Resolution 15-34 Executive Summary Sheet

<b>Resolution:</b>	Authorizing amendments to the Delaware River and Bay Authority's Personnel Manual – Revised Definitions of Employee Classifications
<b>Committee:</b>	Personnel Committee
<b>Committee Date:</b>	September 15, 2015
<b>Board Date:</b>	September 15, 2015
<b>Purpose of Resolution:</b>	To revise employee classifications for accuracy in current practice and for consistency with the Patient Protection and Affordable Care Act (PPACA) of 2010's Employer Mandate.
<b>Background for Resolution:</b>	The current Personnel Manual has employee classification definitions that require updating based on current practice and to be in compliance with federal regulations.

Classifications requiring revisions due to current practice are Probationary Employee, Seasonal or Part-time Employee, Casual Employee and Special Employee. The classification of Special Employee no longer exists (this was used for employees who were engaged for special duties by the Authority, on a professional or consultant basis receiving some form of compensation and benefits).

The classifications for "Seasonal or Part-time" employee and "Casual" employee as currently written do not align with the PPACA's definition of temporary, seasonal or part-time employees. The PPACA require employers to provide affordable health insurance benefits to employees who work an average of 30 hours/week or more or be subject to a penalty. The Authority's current definitions of both Seasonal/Part-Time and Casual employees would appear to permit employees to work in excess of 30 hours per week but still remain ineligible for health insurance benefits. To keep with the intention of temporary employment for these positions and to be in compliance with the PPACA, the current employee definitions of Seasonal and Casual Employees in the Personnel Manual require revisions to be aligned with these new regulations.

The Delaware River and Bay Authority's Personnel Manual currently defines Casual Employee as one who works "on an intermittent basis". It defines a Seasonal Employee as one who

works “for a continuous, limited term usually not in excess of 1,000 hours per calendar year, excluding special project work. Normally, a Seasonal Employee shall not be eligible for rehire without a positive written recommendation of his/her immediate supervisor”.

The 1,000 hour limit previously used by the Authority, was not based in any other regulation, but was created by the Authority for administration purposes.

The current limitations utilized by the Authority are not in compliance with PPACA and are being amended to align with the limitations set forth in the PPACA.

The regulations for this part of the PPACA went into effect as of January 1, 2015 and the Authority has restructured the work hours of Seasonals and Casuals to be in compliance with the Act. This restructuring requires the revision of the employee classifications in the Personnel Manual.