

Duffy, Daniel

FOI # 13119

From: Thursday, April 12, 2012 11:47 AM
Sent: Duffy, Daniel
To: Torres Rojas, Genara; Van Duyne, Sheree
Cc: Freedom of Information Online Request Form
Subject:

Information:

First Name: John
Last Name: McVetty
Company: none
Mailing Address 1:
Mailing Address 2:
City:
State:
Zip Code:
Email Address:
Phone:
Required copies of the records: Yes

List of specific record(s):

I would like a PDF copy of the Declaration of Policy of Tenure of Office adopted by the Board of Commissioners on February 13, 1969

Daniel D. Duffy
FOI Administrator

May 14, 2012

Mr. John McVetty

Re: Freedom of Information Reference No. 13119

Dear Mr. McVetty:

This is a response to your April 12, 2012 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code") for a copy of the Declaration of Policy of Tenure of Office adopted by the Board of Commissioners on February 13, 1969

Material responsive to your request and available under the Code can be found on the Port Authority's website at <http://www.panynj.gov/corporate-information/foi/13119-O.pdf>. Paper copies of the available records are available upon request.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,



Daniel D. Duffy
FOI Administrator

Tenure of Office

The Committee on Operations recommended that the Declaration of Policy of Tenure of Office adopted on September 25, 1941, be modified only with respect to unclassified, professional and managerial employees, by providing that such employees are subject to discretionary removal from Port Authority service without the need for a formal hearing. Procedures with respect to separation of such employees, including interviews at appropriate levels will be established by the Executive Director and filed with the Committee on Operations.

Whereupon, the following resolution was moved for adoption by Commissioner Lowe, the motion being seconded by Commissioner Regan:

NOW, THEREFORE, BE IT RESOLVED, by The Port of New York Authority, that the following be adopted, effective immediately, in lieu of and instead of the Declaration of Policy of Tenure of Office adopted September 25, 1941:

1. (a) It is the intent of this resolution to create for the permanent classified employees of The Port of New York Authority security in their employment, subject to good behavior, the proper performance of their duties, or the possible reorganization or reduction of personnel (in whole or in part) in the interest of efficiency, economy or otherwise. Any dismissal, demotion or transfer of such an employee, or the abolition of a particular office or position, for any other or hidden motives shall be regarded as violative of the spirit under which the resolution is adopted. Each permanent classified employee shall be deemed to be employed upon the condition that he shall not be removed from the particular office or position held by him, except for good and sufficient cause or reason.

(b) The following are examples of good and sufficient cause or reason for removal; dismissal, transfer, demotion of such employees or abolition of a particular position within the meaning of this resolution:

- i. Mental or physical disability which substantially impairs the ability of an employee to perform his duties.
- ii. Substantial or repeated neglect or failure of an employee properly to perform the duties of his office.
- iii. Substantial or repeated violation of rules and regulations prescribed by the Port Authority for the administration of its employees.
- iv. Conduct which is seriously prejudicial to the Port Authority, or the public interest.

- v. The attainment of an age which the Port Authority has now or may hereafter fix for retirement because of superannuation.
- vi. The reorganization of the Port Authority, or of one of its facilities, properties, departments or divisions.

(c) In the illustration cited in subdivisions i to iv of subparagraph "b" above (or analogous cases) classified employees may be removed only after a hearing under the applicable rules and regulations of The Port of New York Authority, which shall provide that the removal, dismissal, transfer or demotion of such employee shall be subject to the approval of the Committee on Operations.

2. Unclassified, professional and managerial employees may be removed by the Executive Director with the approval of the Chairman of the Committee on Operations, for any cause or reason under procedures established by the Executive Director and filed with the Committee on Operations.

Temporary employees and outside consultants may be discharged by the Executive Director for any cause or reason with or without notice or hearing unless otherwise expressly provided in any contract of employment.

3. As used in this resolution, the following words and phrases should be construed as follows:

(a) "Employee" is any person regularly employed by The Port of New York Authority upon a salaried basis whose compensation is computed on an hourly, daily, monthly, or yearly basis and who is not an outside consultant.

(b) "Permanent Employee" is any employee (other than the Executive Director and General Counsel) who has been continuously employed by The Port of New York Authority for more than twelve months, except a person who is within one of the categories provided in subdivision (e) ii and (e) iii of this numbered paragraph.

(c) "Continuous Employment" or words of similar import, shall mean uninterrupted employment by the Port Authority, in any position or positions, either before or after, or partly before or after, the adoption of this resolution. Time spent on authorized vacation, leave of absence with pay, sick leave or other authorized or excused absence with pay, shall be included in computing the period of continuous employment.

(d) "Outside Consultant" is any person specifically hired or retained by the Port Authority in a consultant capacity and/or to render special services of an expert or specialized nature, and such person shall be deemed to be an outside consultant whether or not he is paid upon a per diem, monthly, yearly, or fee basis.

(e) "Temporary Employee" is any person --

- i. who has not been continuously employed by the Port Authority for twelve full months; or
- ii. who has been hired for a fixed period of employment, whether for more or less than twelve months; or
- iii. who has been hired to fill a position vacated either by an employee who has entered the armed forces of the United States of America, or by an employee absent on an authorized leave of absence.

(f) "Unclassified employees" shall mean employees holding the positions of Deputy Executive Director, Secretary, Department Director, and top management positions approved for inclusion by the Operations Committee.

(g) "Professional and managerial employees" shall mean all employees occupying positions to be specifically designated on a list to be promulgated by the Executive Director and filed with the Committee on Operations and the Secretary, and which shall, in general, include employees occupying positions which require a high degree of formal education or specialized training, those holding supervisory or managerial positions or positions of a confidential nature.

(h) "Classified employees" shall mean all employees holding positions not included and described in paragraph 3, subparagraphs (d), (e), (f) and (g) above;

and be it further

RESOLVED, that the Executive Director be and he hereby is authorized to promulgate rules and regulations with respect to hearings which are to be held under the "Declaration of Policy of Tenure of Office" resolution and to take all steps necessary to effectuate the intent of said resolution;

and be it further

RESOLVED, that the resolution of the Board of Commissioners adopted at its meeting on September 25, 1941 (appearing at page 94 of the Official Minutes of that date), be and the same is hereby rescinded.

With the following result:

AYES: Kellogg, Regan, Lowe, Ronan, Clancy, Ammidon

NOES: None

Carried.

In connection with the delegations, directions, and authorizations to the Executive Director contained in the "Declaration of Policy of Tenure of Office" hereinbefore adopted, the Executive Director submitted to the Board the following:

"Procedure Governing 'Unclassified' and 'Professional and Managerial' Employees."

"Disciplinary Proceedings - Permanent Classified Employees."

"Procedure in Cases of Mental or Physical Disability - Permanent Classified Employees."

"Procedure in Cases Other Than Discipline or Disability - Permanent Classified Employees."

"List of Professional, Managerial and Confidential Positions."

The Board received the documents and directed that copies thereof be filed with the Committee on Operations and the Secretary.