

### **Article VII — Certification of Eligibility List; Appointment**

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## **Article VII — Certification of Eligibility List; Appointment**

### **§ 13-701 Creation of Eligibility List.**

(a) **In General.** At the completion of the written examination, oral examination, and physical fitness test, the Commission shall rank all Applicants who have passed all of those required examinations and satisfied the minimum requirements for appointment on an eligibility list. The eligibility list shall contain the names of passing individuals eligible for appointment listed from highest to lowest based on their total scores under § 13-606 (including applicable

veterans' preference points), subject to subsection (b) (relating to background investigation) and § 13-703 (relating to physical and psychological examinations). For promotional positions, fulfilling the performance requirement set forth in § 13-506 is also required. In the case of tied scores, the tie will be broken by giving preference to the Applicant who submitted a final completed application first. If both tied Applicants submitted their complete applications on the same day, then the Applicants shall be ranked in alphabetical order by surname.

**(b) Background Investigation.** The Commission shall, from time to time, request that background investigations under § 13-609 be conducted on such number of persons on the current eligibility list for the entry-level position of patrol officer as the Commission desires, *provided* that background investigations shall be conducted for persons higher on the eligibility list before or concurrently with background investigations for persons lower on the eligibility list. The Commission shall indicate on the eligibility list whether a person on the list has passed the background investigation or is still subject to a background investigation in the future. Upon determining that a person on the eligibility list has passed the background investigation, the Commission shall amend the eligibility list accordingly. Upon determining that a person on the eligibility list has failed the background investigation and warrants rejection, the Commission shall amend the eligibility list to delete that person.

**(c) Duration of List.** The eligibility list shall be valid for a period of one year from the date the Commission first ranks all passing Applicants, assigns veterans preference points, and formally adopts the eligibility list. The Commission may, at its sole discretion before the original expiration date, extend the list for up to an additional twelve (12) months by a majority vote of the Commission at a duly authorized Commission meeting. In the absence of a lawful extension by the Commission, the list shall expire.

**(d) Posting of List.** The Commission shall post the eligibility list, containing the names and grades of those who have passed the examination, in a publicly accessible portion of the Borough offices.

## **§ 13-702 Appointment.**

**(a) Former Borough Police Officers.** The Borough Council may fill any vacancy in an existing position in the Police Department which occurs as a result of retirement, resignation, disability, or death by the reappointment or reinstatement of a former employee of the Police Department who had been appointed previously in accordance with Borough civil service rules. Except for physical and psychological examinations, no other testing shall be required for such a former employee. If the number of Police Officers in the Police Department shall be increased, the Borough Council shall fill the new positions by reinstating persons on the furlough list in accordance with § 13-802 so long as there are persons remaining on the furlough list who timely request reinstatement.

**(b) General Rule.** Except as provided in subsection (a), every position, except that of Chief of Police, shall be filled only in the following manner:

**(1)** The Borough Council shall notify the Commission of any vacancy which is to be filled and shall request the certification of three (3) names from the eligibility list;

(2) If the Commission has not conducted a background investigation on the three (3) highest persons on the eligibility list for the position to be filled (or, if there are fewer than three (3) persons on the list, all of the persons on the list), the Commission shall request additional background investigations under § 13-701(b) until such time as the three (3) highest persons on the list have all passed the background investigation, or all of the persons remaining on the list have passed the background investigation;

(3) Thereafter, if three (3) or more persons are on the eligibility list for the position to be filled and have passed the background investigation, the Commission shall certify the names of the three (3) highest persons on the list to Borough Council. If three (3) names are not available, then the Commission shall certify the names(s) remaining of the list;

(4) The Borough Council shall make a conditional appointment from one of the names certified, based solely on the merits and fitness of the Applicants. However, for entry-level appointments to the position of patrol officer, when one of the three Applicants on the certified list is a “soldier” within the meaning of the Veterans’ Preference Act, 51 PA. CONS. STAT. § 7101 *et seq.*, that Applicant shall be selected, and when two of the Applicants on the certified list are “soldiers,” one of those two Applicants shall be selected. The appointment shall be conditioned solely on passage of the physical and psychological examinations under § 13-703.

(c) **Objections by Borough Council.** The Borough Council may object to one or more of the Applicants certified by the Commission for any of the reasons set forth in § 13-507. Within ten days after such objections are filed, the Commission shall designate a time and place for a public hearing on such objections, which shall be conducted pursuant to the procedures set forth in § 13-509. If the Commission sustains the objections as to any Applicant, the Commission shall strike the name of that Applicant from the eligibility list and certify the next highest name for inclusion on the list of Applicants submitted to the Borough Council (following the completion of any necessary background investigations).

## § 13-703 Physical & Psychological Examinations.

(a) **In General.** After the Borough Council makes a conditional appointment under § 13-702 or § 13-704, the Commission shall direct the conditional appointee to submit to a physical medical examination and a psychological medical examination to determine whether the conditional appointee is capable of performing the essential functions of the position to which he/she has been conditionally appointed with or without reasonable accommodation, and what types of accommodations would be required, if any.

### (b) Medical Examinations and Persons to Conduct Them.

(1) Physical medical examinations shall be under the direction of a physician or other qualified medical professional appointed by Borough Council. The term “physician” shall have the meaning given to it in 1 PA. CONS. STAT. § 1991. The term “qualified medical professional” shall mean an individual, in collaboration with or under the supervision or direction of a physician, as may be required by law, who is licensed:

(A) as a physician assistant pursuant to the act of December 20, 1985 (P.L. 457, No. 112), known as the “Medical Practice Act of 1985,” 63 PA. STAT. ANN. § 422.1 *et seq.*, or

the act of October 5, 1978 (P.L. 1109, No. 261), known as the “Osteopathic Medical Practice Act,” 63 PA. STAT. ANN. § 271.1 *et seq.*; or

(B) as a certified registered nurse practitioner pursuant to the act of May 22, 1951 (P.L. 317, No. 69), known as “The Professional Nursing Law,” 63 PA. STAT. ANN. § 211 *et seq.*

(2) Psychological medical examinations shall be under the direction of a psychiatrist or psychologist appointed by Borough Council.

(3) For purposes of this section, the term “medical examination” shall mean any examination, procedure, inquiry, or test designed to obtain information about medical history or a physical or mental condition which might disqualify an Applicant if it would prevent the Applicant from performing, with or without reasonable accommodation, all of the essential functions of the position to which the Applicant has been conditionally appointed.

(4) The person(s) appointed by Borough Council to conduct the physical medical examination and psychological medical examination (hereinafter, “**Medical Examiners**”) shall render an opinion as to whether the conditional appointee has a physical or mental condition which calls into question the person’s ability to perform all of the essential functions of the position to which the person was conditionally appointed.

(c) **Interactive Discussions.** If the opinion rendered by the Medical Examiners calls into question the conditional appointee’s ability to perform all of the essential functions of the position to which the person was conditionally appointed, a person designated by Borough Council shall meet with the conditional appointee for the purpose of having one or more interactive discussions on whether the conditional appointee can, with or without reasonable accommodation, perform all of the essential functions of the position.

(d) **Appointment of Qualified Individual.** If the opinions rendered by the Medical Examiners do not question the conditional appointee’s ability to perform all of the essential functions of the position to which the person was conditionally appointed, or if Borough Council determines after the interactive discussions under subsection (c) that the conditional appointee is qualified, then the conditional appointee’s appointment shall become a final probationary appointment.

(e) **Rejection of Unqualified Individual.** If, at the conclusion of the interactive discussion under subsection (c), Borough Council determines that the conditional appointee is not qualified, Borough Council shall give written notice to the conditional appointee and the Commission, the conditional appointee’s conditional appointment shall be revoked, and the conditional appointee shall be rejected from further consideration.

(f) **New Certifications in the Event of a Rejection.** If a conditional appointee is rejected, the Commission shall strike the name of the conditional appointee from the eligibility list and certify the next highest name for inclusion on the eligibility list submitted to the Borough Council, and the appointment process shall proceed in accordance with § 13-702.

(g) **No Other Medical Examinations.** Nothing in these Rules and Regulations shall be construed to authorize physical or psychological medical examinations prior to the conditional appointment of a person to a position as a Police Officer.

## § 13-704 Appointment of Chief of Police.

(a) **Nomination.** In the case of a vacancy in the office of Chief of Police, the Borough Council shall have full discretion to nominate any person who satisfies the general qualifications for a Police Officer set forth in § 13-505 to fill the position of Chief of Police. It shall thereupon become the duty of the Commission to examine the qualifications of such person and subject such person to a non-competitive examination.

(b) **Examination.** The non-competitive examination shall consist of:

(1) a written examination *and/or* an oral examination, administered by such persons as the Commission shall designate and with such passing scores as shall be established by the Commission prior to the administration of the examination(s) to the nominee;

(2) the physical fitness test described in § 13-608; and

(3) a background investigation similar to that described in § 13-609, to be conducted by such person(s) as the Commission shall designate.

(c) **Certification and Appointment.** If, following the completion of the non-competitive examination, the Commission shall determine that the nominee is qualified for the office of Chief of Police, the Commission shall certify the nominee to Borough Council. Borough Council may then grant the nominee a probationary appointment to the office of Chief of Police, conditioned upon passing physical and psychological examinations under § 13-703. Thereafter, the Chief of Police may only be suspended, removed from office, or reduced in rank pursuant to the provisions of § 13-705 or Article VIII.

(d) **Rejection of Nominee.** If the Commission shall determine that the nominee is not qualified, Borough Council shall not appoint the nominee. However, the nominee may appeal the decision under § 13-509.

## § 13-705 Probationary Period.

(a) **In General.** Every successful Applicant to the position of patrol officer or to a promotional position with the Police Department or the position of Chief of Police shall serve a twelve (12) month probationary period. During the probationary period, a newly hired officer may only be dismissed, and a promoted officer may only be returned to prior rank, for cause for the reasons set forth in § 13-507 or because of incapacity for duty due to the use of alcohol or drugs. The Mayor or the Chief of Police or his designee shall prepare a written evaluation at three months, six months, and nine months. Evaluations shall be reviewed with the probationer. A final report will be submitted at twelve months with a recommendations for dismissal/reduction in rank or permanent appointment.

(b) **Conduct During Probationary Period.** If, at the close of the probationary period, the conduct or fitness of the probationer is questioned by the Chief of Police, the Mayor, or any member of Borough Council, the Borough Council shall determine whether the conduct or fitness of the probationer has been satisfactory to Borough Council. If not, the probationer shall be notified in writing that he/she will not receive a permanent appointment. At that time, the proba-

tionary appointment shall end; a newly-hired probationer's employment shall terminate, and a promoted probationer shall be returned to his/her previous rank.

(c) **Permanent Appointment.** If, at the close of the probationary period, the conduct and fitness of the probationer has been satisfactory to Borough Council, the probationer shall receive a permanent appointment to his/her position. His/her retention in the position without adverse action and notification by Borough Council within a reasonable period following the expiration of the probationary period shall be deemed to be a permanent appointment.

## **§ 13-706 Provisional Appointments.**

Whenever there are urgent reasons for the filling of a vacancy in any position in the Police Department and there are no names on the eligibility list for such appointment, the Borough Council may nominate a person to the Commission for noncompetitive examination, and if such nominee shall be certified by the Commission as qualified after such noncompetitive examination, he/she may be appointed provisionally to fill such vacancy. It shall thereupon become the duty of the Commission within three weeks to hold a competitive examination and certify an eligibility list and a regular appointment shall then be made from the name or names submitted by the Commission; *provided*, that nothing within this Section shall prevent the appointment, without examination, of persons temporarily as police officers in cases of riot or other emergency.