

Borough of Ebensburg

Rules and Regulations Civil Service Commission

March 2009

Table of Contents

- [Chapter 1. Definition of Terms](#)
 - [Chapter 2. The Commission](#)
 - [Chapter 3. Applications and Qualifications](#)
 - [Chapter 4. Examination and Grading Procedure](#)
 - [Chapter 5. Certification of the List of Eligible and Appointment](#)
 - [Chapter 6. Suspensions, Removals and Reductions in Rank](#)
 - [Chapter 7. Inspections](#)
 - [Chapter 8. Resolution for Adoption of Rules](#)
-
- Appendix 1. [Civil Service and Non-Civil Service Hiring Forms and Letters](#)
 - [Appendix 2. Resolutions](#)
 - Appendix 3. [Notices of Appointment](#)
 - Appendix 4. Application for Employment
 - Appendix 5. Police Officer Position Description

Chapter I. Definition of Terms

1.1 Unless otherwise expressly stated, the following words and phrases, wherever used in these Rules, shall be construed to have the meaning indicated herein:

- A. Applicant: Any individual who applies in writing to the Commission in response to a legally advertised notice of examination for any uniformed position in the police department.
- B. Appointing Authority: The Borough Council of the Borough of Ebensburg, Pennsylvania.
- C. Certification: The submission to the appointing authority pursuant to its request for three names taken from the eligible list developed by the Civil Service Commission.
- D. Chairperson: The Chairperson of the Civil Service Commission of the Borough of Ebensburg, Pennsylvania.
- E. Commission: The Civil Service Commission of the Borough of Ebensburg, Pennsylvania.
- F. Commissioner: An individual appointed by the Borough of Ebensburg, Pennsylvania to serve as a member of the Civil Service Commission.
- G. Eligible: A person whose name is recorded on a current eligible list or furlough list.
- H. Eligible List: The list of names of persons, rank ordered from highest score to lowest score, who have passed all examinations for a particular position in the police department. These scores shall include the application of veteran's preference points.
- I. Examination: The series of tests given to applicants to determine their qualifications for a position in the police department.
- J. Furlough List: The list containing the names of persons laid off from positions in the police department because of a reduction in the number of officers.
- K. Loudermill Hearing: A pre-deprivation meeting, which occurs before the Borough reaches a decision on discipline, during which a police officer is provided the opportunity to respond, in an informal setting, to allegations against him that may result in disciplinary action. Except in rare circumstances when a tenured (non-probationary) officer is at risk for a loss of income as a result of the imposition of

discipline Loudermill meetings are mandatory although the Borough is not prevented from making a decision on a matter of potential discipline where it offers the relevant officer a Loudermill meeting and the officer declines to participate.

- L. M.P.O.E.T.C.: Municipal Police Officer's Education and Training Commission.
- M. Municipal Secretary: The Secretary of the Borough of Ebensburg, Cambria County, Pennsylvania
- N. Patrol Officer: For purposes of these Rules, a sworn full time employee in the Police Department who meets the requirements established by the Borough of Ebensburg and the Commonwealth of Pennsylvania (including M.P.O.E.T.C.)
- O. Police Department: The Police Department of the Borough of Ebensburg, PA.
- P. Probationer: An officer in the police department who has been appointed from an eligible list, but who has not yet completed the work test period.
- Q. Reduction in Rank: A change to a different position or rank where the employee fulfilled all of the requirements of these Rules for both the prior and current position or rank. However, a decrease in salary without a change to a different position or rank shall not necessarily constitute a reduction in rank.
- R. Removal: The permanent separation of a police officer from the police department.
- S. Secretary: The Secretary of the Civil Service Commission of the Borough of Ebensburg, Pennsylvania.
- T. Suspension: The temporary separation with or without pay of a police officer from the police department.

1.2 Gender

The words "he," "his," "him" and "men" when used in these Rules represent both the masculine and feminine genders.

Chapter 2. The Civil Service Commission

2.1 Officers

The Commission shall consist of three commissioners who shall be qualified electors of the Borough of Ebensburg and shall be appointed by the Ebensburg Borough Council initially to serve for the terms of two (2), four (4) and six (6) years and as terms thereafter expire shall be appointed for terms of six (6) years.

Any vacancy occurring in the commission for any reason whatsoever shall be filled by the Borough Council for the unexpired term within the period of thirty (30) days after such vacancy occurs.

Each member of the Commission, before entering upon the discharge of the duties of their office, shall take an oath or affirmation, administered by the Mayor or other appropriate official.

No commissioner shall receive compensation.

2.2 Offices Incompatible with Civil Service Commissioner

No commissioner shall at the same time hold an elective or appointed office under the United States government, the Commonwealth of Pennsylvania or any political subdivision

of the Commonwealth, except that one member of the Commission may be a member of the Ebensburg Borough Council and one may be a member of the teaching profession.

2.3 Organization of Commission & Quorum

The Commission first appointed shall organize within ten days of its appointment and shall elect one of its members as its chairperson, vice-chairperson and one as its secretary. The Commission shall thereafter meet and organize on the first Monday of February of each even numbered year. Two members of the Commission shall constitute a quorum and no action of the Commission shall be valid unless it shall have the concurrence of at least two members. Unless prevented by facts which constitute a conflict of interest as defined by Pennsylvania statutory or case law, a Commissioner must vote "yea" or "nay" on every motion, decision or adjudication which comes before the Commission.

For purposes of hiring and promoting police officers under these rules, each step of the hiring or promotional process requiring official action by the Commission shall be considered a separate "matter or case" and each step of the hiring or promotional process need not be voted upon or approved by the same composition of commissioners, as the case may be, provided that the quorum requirement has been satisfied.

2.4 Duties of Chairperson

The chairperson, or in his absence, the vice chairperson, shall preside at all meetings and hearings of the Commission, decide all points of order or procedure and perform any duties required by law or these Rules. He may be aided in these duties by a solicitor to the Commission. Any such solicitor or legal counsel must have an active license to practice law in Pennsylvania and cannot also function as the Borough Solicitor or be affiliated with the law firm of the Borough Solicitor.

2.5 Duties of Secretary

The Secretary shall carry on at the direction of the Commission all official correspondence of the Commission, send out all notices required by law and these Rules, keep a record of each examination or other official action of the Commission, and perform all other duties required by law, by these Rules and by the Commission.

2.6 Meetings

Except for the biennial organization meeting, all non-judicial meetings shall be held either at the call of the chairperson or at the call of two members of the Commission. Unless all members shall waive the requirement, the Secretary of the Commission shall give each commissioner twenty-four (24) hours notice in writing of each and every meeting of the Commission. When the Commission is functioning in a non-judicial capacity, any official actions and any deliberations by a quorum of the Commission shall take place in a meeting open to the public unless closed pursuant to 65 Pa. C.S.A. Section 708. The judicial deliberations of the Commission shall always be conducted in executive session. However, official actions of the Commission, when it is performing in its judicial capacity, shall take place in a meeting open to the public. If the individual who has invoked the judicial authority of the Commission has requested an open hearing, then the entire decision of the Commission shall be rendered publicly. If that individual has demanded a closed hearing, then only the final order of the Commission shall be rendered in public.

2.7 Order of Business

The order of business of all non-judicial meetings of the Commission shall be as follows:

- A. Roll Call;
- B. Approval/disapproval of the minutes of the previous meeting;
- C. Public Comments
- D. Unfinished business;
- E. New business;
- F. Communications and reports;
- G. Adjourn

2.8 Clerks and Supplies

The governing body shall furnish the Commission with such supplies and clerical assistance as may be necessary for the commission to fulfill its duties. In addition, the Commission may retain counsel, and any other consultants or experts, including physicians and psychiatrists, as are necessary. The elected and appointed officials of the Borough of Ebensburg shall assist the Commission with all reasonable and appropriate efforts including compensation for any counsel or experts retained by the Commission.

2.9 Rules and Regulations; Amendment

The Commission shall have the power to prescribe, enforce and amend the rules and regulations governing the conduct of its activities by a majority of the Commission at any properly convened meeting of the Commission. Before any changes to these rules or regulations become effective, those changes must be approved by Borough Council. These rules and regulations and any modifications or amendments thereto, shall be made available to the public for distribution or inspection.

2.10 Minutes and Records

The Commission Secretary shall keep minutes showing the vote of each member upon each question and records of examinations and other official actions. If a member is absent, cannot vote due to a conflict of interest or fails to vote, the Secretary shall indicate that fact in the minutes. All records of the Commission shall be preserved and disposed of according to the Retention and Disposition Schedule for Records of Pennsylvania Municipalities issued by the Local Government Records Committee under the authority of the Municipal Records Act, 53 Pa. C.S.A. § 1381 et seq.

Commission records pertaining to all aspects of its business (except minutes) shall be maintained for five (5) years after which they shall be destroyed. A record of Commission minutes shall be permanently maintained. Records relating to litigation or probable litigation shall, in no case, be destroyed until such time as the litigation or litigation threat has been resolved. Documents and information qualifying as public records will be available to the public. The Commission adopts the procedures employed by the Borough, as they may from time-to-time be modified, relative to responding to requests for public records.

Any and all records relating to any disciplinary action filed with the Commission shall be open to public inspection (which public inspection shall be subject to reasonable regulation) only in those cases where the employee who is subject to the discipline has requested an open hearing before the Commission challenging the discipline.

2.11 Investigations

The commission shall have the power to make investigations concerning all matters relating to the administration and enforcement of these Rules. The Chairperson of the Commission is authorized to administer oaths and affirmations for witnesses testifying in connection with such investigations.

2.12 Subpoenas

The Commission shall have the power to issue subpoenas over the signature of the Chairperson, or his/her designee, to acquire the attendance of witnesses and the production of records and papers pertaining to any investigation or inquiry, including any background investigation conducted pursuant to Section 4.9 of these Rules. The fees of such witnesses for attendance and travel shall be the same as for witnesses appearing in the courts and shall be paid from appropriations for the incidental expenses of the Commission.

All officers in public service and employees of the Borough of Ebensburg shall attend and testify when required to do so by the Commission.

If any person shall refuse or neglect to obey any subpoena issued by the Commission, upon conviction of such refusal or neglect in a summary proceeding, that person shall be sentenced to pay a fine not to exceed one hundred dollars (\$100), and in default of the payment of such fine and cost shall be imprisoned not to exceed thirty (30) days.

If any person shall refuse or neglect to obey any subpoena, the Commission may apply by petition to the Court of Common Pleas of Cambria County to enforce that subpoena, requiring the attendance of such persons before the Commission or the court to testify and to produce any records and papers necessary, and in default thereof shall be held in contempt of court.

2.13 Annual Report

The Commission shall make an annual report to the Ebensburg Borough Council containing a brief summary of its work during the year and a full accounting for any expenditure of public monies. The annual report shall be available for public inspection.

Chapter 3. Applications and Qualifications

3.1 Eligibility for Hiring

In order to be eligible for participation in the hiring/examination procedure for any position with the police department, every applicant must submit a completed application form to the Commission before the deadline stated by the Commission for that specific examination. The applicant must make an oath or affirmation that the application is completed truthfully,

and the applicant is subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

3.2 Discrimination

The Borough is an equal opportunity employer. It is the Borough's and the Commission's policy to grant equal employment opportunities to qualified persons without regard to race, religion, color, national origin, gender, age, veteran status, marital status or mental handicap or disability, which, with or without a reasonable accommodation, would/does not prevent the person from performing the essential functions of the job. The Borough and the Commission will provide equal opportunities in employment and promotion.

3.3 Availability

Application forms shall be available to all interested persons in the Borough Office. Application forms may be mailed upon written or telephone request to the Borough Secretary. However, the Commission assumes no responsibility for missed filing deadlines due to a delay in the mail.

3.4 Age Requirement

All entry-level applicants must have reached their twenty-first (21st) birthday before the deadline for submitting applications.

3.5 General Qualifications for Entry-Level Patrol Officer

Applicants shall possess a diploma from an accredited high school or a graduate equivalency diploma and shall be Act 120 certified or have completed training to become Act 120 certified. In addition, every applicant must be a United States citizen, be physically and mentally fit to perform the full duties of a police officer, be eligible to receive certification from the Municipal Police Officers' Education and Training Commission (MPOETC), and, prior to appointment, possesses a valid motor vehicle operator's license issued by the Commonwealth of Pennsylvania.

The essential functions for the position of patrol officer are contained in the job description.

3.6 Entry-Level Patrol Officer Sequence of Selection Process

To insure the proper order of the selection process, the following sequence of events shall be followed in the selection of entry level police officers:

- A. Application
- B. Written Examination
- C. Oral Examination
- D. Background Investigation
- E. Polygraph Examination may be required if background investigation indicates advisable.
- F. Conditional Offer of Employment
- G. Medical/Psychological Examination to include drug screening.
- H. Probation
- I. Permanent Appointment

3.7 General Qualifications for Sergeant

Prior service with the Ebensburg Borough Police Department is a prerequisite for the position of Sergeant. An applicant for the position of Sergeant shall have at least three (3) years of experience as a patrol officer within the Ebensburg Police Department, have no suspensions from duty within the past three (3) years and have no suspensions for insubordination. Should no applicants within the Department qualify for the position, the position will be advertised and will be open to non-Ebensburg Police Department applicants. Applicants from other departments shall have at least three (3) years of experience as a full-time patrol officer with any combination of other police departments. In any case, written and oral examinations will be conducted to establish an eligibility list. Individuals on the eligibility list not presently employed by the Ebensburg Police Department will undergo a background investigation.

Applicants shall possess a diploma from an accredited high school or a graduate equivalency diploma. In addition, every applicant must be a United States citizen, be physically and mentally fit to perform the full duties of a police officer, must be certified by the Municipal Police Officers' Education and Training Commission, and, prior to appointment, possess a valid motor vehicle operator's license issued by the Commonwealth of Pennsylvania.

The essential functions for the position of Sergeant are the same as that of patrol officer.

3.8 General Qualifications for Assistant Chief of Police

Prior service with the Ebensburg Borough Police Department is a prerequisite for the position of Assistant Chief of Police. An applicant for the position of Assistant Chief of Police shall have at least five (5) years of experience as a patrol officer within the Ebensburg Police Department, have no suspensions from duty within the past three (3) years and have no suspensions for insubordination. Should no applicants within the Department qualify for the position, the position will be advertised and will be open to non-Ebensburg Police Department applicants. Applicants from other departments shall have at least five (5) years of experience as a full-time patrol officer with any combination of other police departments. In any case, written and oral examinations will be conducted to establish an eligibility list. Individuals on the eligibility list not presently employed by the Ebensburg Police Department will undergo a background investigation.

Applicants shall possess a diploma from an accredited high school or a graduate equivalency diploma. In addition, every applicant must be a United States citizen, be physically and mentally fit to perform the full duties of a police officer, must be certified by the Municipal Police Officers' Education and Training Commission, and, prior to appointment, possess a valid motor vehicle operator's license issued by the Commonwealth of Pennsylvania.

The essential functions for the position of Assistant Chief of Police are contained in the job description.

3.9 General Qualifications for Chief of Police

Every applicant for the position of Chief of Police shall have earned a degree in police science, law enforcement, criminal justice, public administration, or closely related field

from an accredited college or university. Also every applicant must have seven (7) years of progressively responsible police experience or any equivalent combination of training and experience. In addition, every applicant must be a United States citizen, be physically and mentally fit to perform the essential functions listed in the job description for Police Chief, must be able to be certified by Municipal Police Officers' Education and Training Commission, and, prior to appointment possess a valid motor vehicle operators license issued by the Commonwealth of Pennsylvania. The essential functions for the position of Chief of Police are contained in the job description.

3.10 Recording and Filing of Application

General applications for police employment, received by the Borough or Commission, and which have no relevance to a decision to test in order to create an eligibility list for entry-level patrol officers, shall be discarded and are ineffective as a means of applying for entry-level patrol officer employment. To be an effective application for the position of entry-level patrol officer, the application must be received at the Borough Administrative Building only after the Commission has legally advertised its intention to conduct an examination for the position on entry-level Ebensburg Borough Police Officer. Applications received after such notice has been legally advertised, but also after the deadline date for receiving such applications will be rejected and returned to the applicant.

The Borough, or its designee, shall review each application upon receipt, for the purpose of determining that such application contains no obvious errors or omissions. Any application received more than ten (10) days prior to the filing deadline, containing errors or omissions shall be returned to the applicant for correction or addition. An application received within less than ten (10) days prior to the filing of the deadline and containing material errors or omissions shall not be considered and will not be returned. The Commission, or its designee, shall date, number, and record, in the order of receipt, all applications free of errors and omissions. The individual recording the applications shall note whether the individual is requesting veteran's status and whether the individual has given notice of a need for a reasonable accommodation in the application or examination process. An application, once recorded, shall not be returned to the applicant.

3.11 Disqualification/Rejection of Applicant

The Commission may refuse to examine, or, if examined, may refuse to certify as eligible after examination, any applicant who is found to lack any of the minimum qualifications for examination prescribed in these Rules and Regulations for the particular position for which the applicant has applied. The Commission may refuse to examine, or if examined, may refuse to certify any applicant who is physically or mentally unfit to perform the full duties of the position to which he seeks employment, or who is a habitual substance abuser, who is guilty of any crime involving moral turpitude, or of infamous or notoriously disgraceful conduct or who has been dismissed from public service for delinquency or misconduct in office.

Further, an applicant may be disqualified or rejected for one of the following criteria:

- A. Having been convicted of a crime for which the punishment can be more than one year imprisonment as defined in Title 18 of the Pennsylvania Crimes Code, as defined in the jurisdiction where the crime occurred or as defined in the Military Code of Conduct.

- B. Having been released from any military or civilian police department for actions or inactions which, though not committed while employed as a Borough of Ebensburg police officer, could result in discipline if engaged in by a member of the Borough of Ebensburg Police Department.
- C. Having been released from any civilian police department during probation.
- D. Having a history of heavy gambling loss or failure to remain current in the payment of taxes.
- E. Failure to provide support for minor children.
- F. Evidence of present improper use of controlled substances as defined in schedules I through V of Section 202 of the Controlled Substances Act, 21 U.S.C.A. § 812.

3.12 Hearing for Disqualified Applicants

Any applicants or other persons who believe that they are aggrieved by the actions of the Commission in refusing to examine or to certify them as eligible after examination, may request a hearing before the Commission. Within ten days after such request, the Commission shall designate a time and place for the hearing which shall be conducted pursuant to the procedures set forth in the Local Agency Law, 2 Pa. C.S. § 101 et seq. The applicant or aggrieved party must make his request for a hearing in writing within ten calendar days of the date when the party knew or should have known of the Commission's action which is being challenged. This request for a hearing should be served upon the Secretary of the Commission in its offices at 300 West High Street, Ebensburg, Pennsylvania.

3.13 Penalty for False Statement

The statements made by the applicant in the official application shall contain no falsification, omission or concealment of material fact. Should investigation disclose any willful misstatement, falsification or concealment with respect to an application:

- A. The application shall be invalid and the applicant shall be disqualified from examination;
- B. If the applicant shall have been examined, the name of such applicant shall be removed from the eligibility list;
- C. If the applicant shall have been appointed, such deliberate falsification, omission or concealment shall constitute grounds for dismissal from the Police Department. Such falsification, omission or concealment shall be grounds for dismissal no matter how long the timeframe between appointment and the discovery of the falsification, omission or concealment.

Any applicant or other person who believes that they are aggrieved as a result of the actions of the Commission referenced in this section may request a hearing before the Commission pursuant to Chapter 3.12.

No person who shall make any application containing a deliberate misstatement, falsification, omission or concealment shall be permitted to make any future application for any position in the Police Department of the Borough.

3.14 Public Notice

The Commission shall conspicuously post in the Borough building an announcement of the hiring and/or promotional testing and set forth the time and place of every examination, together with the information as to the type of position to be filled, the requirements for that position, where applications may be obtained, and the deadline for filing those applications. In addition, at least two weeks prior to the close of the application period, publication of the notice shall occur in at least one newspaper of general circulation in the Borough of Ebensburg.

Chapter 4. Examination and Grading Procedure

4.1 General Examination Requirements for the Position of Patrol Officer

- A. The examination for patrol officer will consist of a written and an oral examination which will be graded on a one hundred (100) point scale with the written examination representing fifty percent (50%) of the final score and the oral examination representing fifty percent (50%) of the final score. An applicant to be placed on the eligibility list must pass both the written and oral examinations. Prior to the compilation of the eligibility list, each remaining applicant may have to undergo a polygraph examination, and shall undergo a background investigation. After an applicant has been extended a conditional offer of employment, final appointment shall be contingent upon the applicant passing medical and psychological examinations. If it is necessary to hire more than one entry-level officer, each additional entry-level hire shall be awarded using the same process described above.
- B. On each occasion where Borough Council seeks to fill an entry level police position the Commission shall certify the three highest ranking (as measured by combined written and oral test scores and veterans' preference points) available candidates. Council is free to select any one of the three (3) so certified unless one is a veteran. In the latter case, the one veteran must be the selected. If two (2) or all three (3) of the applicants are veterans, Council may choose from among the veterans.
- C. When the Commission has written notice from an applicant who has passed the written and oral examinations that he/she does not wish to be further considered for Borough employment the Commission may remove the applicant's name from the eligibility list.

4.2 General Examination Requirements for Promotion to Sergeant and Assistant Chief

- A. The examination for the positions of Sergeant and Assistant Chief of Police shall include a written and an oral examination which will be graded on a one hundred (100) point scale with the written examination representing fifty percent (50%) of the final score and the oral examination representing fifty percent (50%) of the final score.
- B. Selection of an officer for the position of Sergeant or Assistant Chief of Police shall be determined by his or her standing at the end of the testing procedure. The top three (3) names of the individuals with the highest combined score who have passed both the written and oral examinations, shall be submitted to Borough Council. The Borough Council will then appoint the candidate who finishes highest on the eligibility

list. If it is necessary to promote more than one officer, each additional promotion shall be awarded using the same process described above.

- C. Veterans' preference is not applicable to promotion decisions (per opinions of the Pennsylvania Supreme Court.)
- D. The testing results for promotions shall be valid for the duration of the eligibility list which, unless stated otherwise, is two (2) years. The Commission may, at its sole discretion, before the original expiration date, by a vote of the majority of the Commission at a duly authorized commission meeting, extend the list for up to an additional (1) year.
- E. After an applicant has been extended an offer to the position of Sergeant or Assistant Chief of Police, the final appointment to the position may be contingent upon the applicant passing a medical evaluation, polygraph examination (if required by the Civil Service Commission or Chief of Police) and psychological examination.

4.4 Appointment of Examiners

The appointing authority shall appoint a written examination administrator, an oral examination administrator, a polygraph examiner, a medical examiner and a psychological examiner to conduct the appropriate examination required by these Rules and Regulations.

4.5 Admission to Written Examination

All applicants who meet the basic qualifications will be admitted to the written examination after providing photo identification. The notification document shall serve as the admission card to the examination. This procedure shall be followed at each segment of the examination process.

4.6 Written Examination

The written examination shall be constructed to test the non-physical capability of the applicants to perform and to be trained to perform the essential functions of the position. The exact design of the examination shall be altered from time to time but will be practical in character and shall relate to such matters and include such inquiries as will fairly test the merit and fitness of the person examined to discharge the duties of a police officer.

The Commission shall designate an examining agency or qualified individual(s) to act as examiner for or consultant on the written examinations. The Commission shall reserve the right to accept or reject for cause, in whole or in part, the recommendations of the regularly appointed examining and/or consulting agency.

The written examination shall be graded on a 100 point scale and an applicant must score seventy percent (70%) or higher in order to continue in the application process. Applicants scoring less than seventy (70%) percent shall be rejected.

Within thirty (30) days after the administration of the written examination, all applicants shall be given written notice of their test results and passing applicants shall be scheduled for an oral examination appointment.

4.7 Oral Examination

Every applicant who scored seventy percent (70%) or higher in the written examination shall be given an oral examination which will be graded on a 100 point scale with a score of seventy percent (70%) or higher necessary for passing. Within thirty (30) days after the applicant's oral examination, he shall be informed of his score in his oral examination and total overall score.

Organizing the oral examination of applicants who passed the written examination shall be the responsibility of the Commission. The Commission shall empanel a board of examiners who shall ask each applicant interviewed a pre-determined series of basic questions (follow up questions may vary from applicant to applicant depending upon the responses given to the basic questions.) The basic questions shall relate to pre-determined scenarios or situations which shall be provided to the applicants being examined at the start of the examination. The board of examiners shall consist of three (3) individuals. The Commission shall select the three (3) members of this board of examiners with a view to the community's policing needs and with the goal of placing persons on the board of examiners who are knowledgeable about modern policing, issues and/or concerns. Each member of the board of examiners shall interview and rate every applicant. Members of this board shall score the applicants without first consulting with any or all of the other board members. The total score from each examiner shall be the addition of the average scores on all five questions. Once each examiner tallies their score, the three scores of each examiner are then added together and divided by three (3) to obtain the final score for that particular candidate.

The persons assigned to conduct oral examinations shall complete a rating form after interviewing each applicant. The rating form shall be collected, tallied and recorded by the Secretary, or his designee. Applicants should be scored for their demeanor and for the content and relevance of their answers/responses.

4.8 Veterans' Preference Points

Pursuant to the Veterans' Preference Act, any applicant for the position of patrol officer who qualifies as a "soldier" under the Act shall receive an additional ten (10) points on top of their total score if that applicant had received passing scores under Sections 4.6 and 4.7. Soldier is defined as any individual who has served in the regular military, the National Guard or the Reserves since July 1953 and who has completed his military service commitment and has received (or will receive) an honorable discharge from such service at the time they take the Civil Service appointment examination. An "honorable discharge" may include a general discharge under honorable circumstances. Applicants claiming Veteran's Preference must submit satisfactory proof of service and honorable discharge with the application, specifically Form DD-214.

4.9 Background Investigation

The Commission shall request the Chief of Police or an independent agency/individual/organization to conduct a background investigation on each of the top three applicants for entry level position declared vacant by Council. The number of applicants subject to the background check may be increased if the appointing authority has expressed an interest in hiring more than one officer. The application will provide the basis

for the background investigation. The "Authority to Release" portion of the application form must have been completed by the applicant if the applicant is to continue in the selection process. *The background check shall be in compliance, at a minimum, with the guidelines established by the MPOETC.*

After the background investigation is completed the Chief of Police or independent agency/individual/organization shall make a written recommendation to the Commission on whether the applicant is appropriate for consideration for appointment as a police officer. Appropriateness of the applicant shall be based on the criteria set forth in these Rules and Regulations and in the Civil Service provisions of the Borough Code. Based upon the results of the background investigation, the Chief, the Borough Manager, the Mayor or a member of Council may request, pursuant to 53 P.S. §46184, that an individual be removed from the list. The applicant may oppose this request and in turn, pursuant to the Borough Code (53 P.S. §46183) request a hearing. This recommendation shall be in writing and if the recommendation is to disqualify, then a detailed written explanation of the reasons for disqualification must be included. The Commission shall make the final administrative determination on whether the information collected during the background investigation warrants rejection of the candidate.

The applicant will be informed as to whether, based upon the background investigation, he continues to be an applicant for the position of Ebensburg Police Officer.

4.10 Polygraph Examination

The Commission reserves the right to require an applicant, as a condition of continuing to be an applicant, to take a polygraph examination. It is the intent of the Commission to exercise this right upon the development of reasonable suspicion, during the application/testing/background investigation process, that the candidate for entry level hiring or promotion has not been fully truthful. When a polygraph examination is required of a candidate, that fact shall be maintained on the part of the Commission with appropriate confidentiality.

- A. Every applicant shall fill out a Personal Data Questionnaire. The commission shall furnish each polygraph examiner with forms upon which the examiner shall state whether any of the applicant's responses to questions from the applicant's Personal Data Questionnaire are deceptive. The report on each examination shall be submitted to the commission within five (5) days after the date of the examination.
- B. The examiner shall ask questions based on the information contained in the Personal Data Questionnaire or developed during the course of the background investigation. Before administering the test, the examiner shall ask each applicant whether there is any more information related to the Personal Data Questionnaire which the applicant would like to provide. There shall also be a post-test review, during which the examiner shall again ask the participant, if deception is indicated, whether there is any information which the applicant is withholding.
- C. If the examiner shall deem any of the applicant's responses to be deceptive, the examiner must tell the applicant immediately and give the applicant an opportunity to explain, deny or admit the deception. If the applicant denies being deceptive or if the explanation is found unsatisfactory by the examiner, the applicant will be given the opportunity to retake the test with a second examiner. Notice of the opportunity to retest shall be given in writing to the applicant. The second examiner will not have

access to the results of the first test prior to re-administering the polygraph. If the second examiner finds no deception, the applicant will be considered as having passed the polygraph. If the second examiner also finds the applicant deceptive, the applicant will be considered as having failed the examination.

- D. An applicant who has failed both tests may appeal to the Civil Service Commission for a third examination and the decision to give the applicant an opportunity to take a third test resides solely within the discretion of the Commission. If the applicant is awarded an opportunity to take a third test and passes, then the applicant will be considered as having passed the polygraph test. If the applicant is found deceptive on a third test, the applicant will be rejected.

4.11 Improper Conduct

Should any applicant conduct himself in any manner during the course of the selection process so as to defeat the proper intent, conduct or course of the examination process, his name shall be removed from any list of eligibility derived from the examination process (assuming he was permitted to complete the process) and the applicant shall not be permitted to make any future application for any position in the Police Department.

Any applicant or other person who believes that they are aggrieved as a result of the actions of the Commission referenced in this section may request a hearing before the Commission pursuant to Chapter 3.12.

Chapter 5. Certification of the List of Eligibles and Appointment

5.1 Creation of Eligibility List

At the completion of the examination requirements set forth in Chapter 4, the Commission shall rank all passing applicants on the eligibility list with the applicant receiving the highest score at the top of the list and the applicant receiving the lowest passing score at the bottom of the list. None of the applicants on the eligibility list will be considered for inclusion as Certified as one of the top three candidates submitted to Borough Council until they are in compliance with Section 4.9 of these rules. Applicants for patrol officer who qualify for veterans' preference points shall have those points added to their passing score prior to being ranked on the eligibility list.

For promotional positions, fulfilling the general qualifications as set forth in Chapter 3.5 through 3.9 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 tie will be broken by the drawing of lots giving preference to the applicant who draws the highest number.

The eligibility lists will be valid for two (2) years from the date the Commission ranks all passing applicants, assigns veterans' preference points and formally adopts the eligibility lists. The Commission may, at its sole discretion, before the original expiration date, by a vote of the majority of the Commission at a duly authorized commission meeting, extend the lists for up to an additional one (1) year. The Commission may at its sole discretion void an eligibility list at any time for any reason which may include the desire of the Council to avoid selecting from those ranked near or at the bottom of the list.

5.2 Removal of Names from Furlough or Eligible List

In addition to the reasons stated in these Rules and Regulations as grounds for removal, the name of any person appearing on the furlough list or an eligible list shall be removed from such list by the Commission if such person:

- A. is appointed to a position in the Police Department of the Borough;
- B. requests removal from the list in writing;
- C. declines an appointment to a position in the Police Department of the Borough;
- D. fails to make written reply to the Commission within seven (7) calendar days from the date of mailing of a notice of appointment in the case of initial appointment or failure to make reply to the Commission within thirty (30) calendar days from the date of mailing of a notice of reinstatement from furlough;
- E. indicates availability for appointment and is appointed to fill a vacancy but fails to report for duty at the time prescribed by the appointing authority, unless, in the opinion of the appointing authority, such person can show good and sufficient reasons for failing to report. In the case of a new hire from an eligibility list reporting for duty means reporting for a medical and/or psychological examination.

5.3 Appointment

- A. Borough Council may fill any vacancy in an existing position in the Police Department which occurs as a result of expansion of the police force, retirement, resignation, disability or death by the reappointment or reinstatement of a former employee of the police department who had been furloughed. (Note: Such events create vacancies only when Council has concluded that this is the case.)
- B. If no furlough list exists or if positions remain to be filled after all of the officers on the furlough list were offered reemployment, every original position, except that of Chief of Police, shall be filled only in the following manner:
 - 1. 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 list of eligibles;
 - 2. If three (3) names are not available, then the Commission shall take the steps necessary to create a new list;
 - 3. The Borough Council shall make an appointment from one of the three names certified with sole reference to the merits and fitness of the candidates. However, for initial appointment to the position of police officer, when one of the three applicants on the certified list is a veteran, that applicant shall be selected.
- C. The Borough Council may object to one or more of the persons certified for the reasons set forth in Chapter 3.11 of these Rules and Regulations. If the candidate to whom the Borough Council objects fails to timely exercise his rights of appeal under Chapter 3.12 or if the Commission declines to uphold his appeal, the Commission shall strike the name of that candidate from the eligibility list and certify the next highest name for inclusion on the list of three candidates from each name stricken off.
- D. The appointing authority may, at its discretion, interview those persons on the eligibility list prior to making a final selection.

5.4 Appointment of Chief of Police

In the case of a vacancy in the office of Chief of Police, the appointing authority has full discretion in selecting the individual to fill the position of Chief of Police. If the appointing authority requests the Commission to subject that person to a noncompetitive examination, and if that person successfully passes the noncompetitive examination, then the Commission shall notify the appointing authority of the results of the examination and that person may only be removed from the position of Chief of Police for the reasons set forth in Chapter 6.3.

5.5 Medical and Psychological Examinations

After the appointing authority selects a candidate for an original appointment from the certified list of three (3), that selectee shall submit to a post-offer medical examination which may include a drug screen by appropriate screening experts. When the post-offer medical exam demonstrates no reason why the selectee cannot, with or without reasonable accommodation, perform all of the essential functions of the job, the selectee's appointment shall be finalized. If the candidate successfully passes the medical and psychological examinations, then that employee shall be appointed to the vacant position in the Police Department for which the application was submitted. The Commission adopts the medical and psychological requirements of the MPOETC. Upon receiving information from the medical and/or psychological examination that indicates the selectee is unable, with or without reasonable accommodation, to perform all of the essential functions of the job, the Commission shall offer to meet with the selectee for the purpose of engaging in an interactive discussion with him regarding the findings of the medical/psychological examinations. The goal of this interactive discussion would be to explore with the selectee whether he was aware of any recommendation he considered to be unreasonable and which would allow him to perform all of the essential functions of the job he seeks.

The rejected candidate may appeal this decision under Chapter 3.12. The Commission shall then certify another name to be included with the two previously certified names for consideration by the appointing authority pursuant to Chapter 5.3.

5.6 Probationary Period

Every successful applicant to the position of patrol officer or a new promotional position with the Police Department shall serve a twelve (12) month probationary period. During the probationary period, a newly hired officer may be immediately dismissed for cause for the reasons set forth in Chapter 6.3. A promoted officer, during his probationary period, may be immediately returned to his prior rank for cause for the reasons set forth in Chapter 6.3.

At the end of the twelve (12) month probationary period, if the general performance of the probationer has not been satisfactory to the Borough Council, the probationer shall be notified in writing that he will not receive a permanent appointment. At that time, a newly hired officer's employment shall end and a promoted officer shall return to his previous rank. Any officer who is informed in writing that he will not receive a permanent appointment has no rights of appeal under these Rules and Regulations.

5.7 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 eligible list for such appointment, the Borough Council may nominate a person to the Commission for noncompetitive examination. The nominee may be certified by the Commission as qualified after a noncompetitive examination and he may be appointed provisionally to fill such a vacancy. It shall thereupon become the duty of the Commission within six (6) months to hold a competitive examination and certify a list of eligible and then a regular appointment shall then be made from the name or names submitted by the Commission: provided, that nothing within this Chapter shall prevent the appointment, without examination, of persons temporarily as police officers in cases of riot or other emergency.

Chapter 6. Suspensions, Removals and Reductions in Rank

6.1 General Provisions

The Council shall have power to determine in each instance whether a decrease in salary shall constitute a reduction in rank. All suspensions, removals and reductions in rank shall be made only in accordance with these Rules and Regulations.

6.2 Grounds for Disciplinary Action

- A. No person in the police department of the Borough shall be removed from employment, suspended or reduced in rank except for the following reasons:
 - 1. Physical or mental disability affecting the officer's ability to continue in service, evidenced by the certification to that effect by a medical doctor and/or psychologist designated by the commission, in which cases the persons shall receive an honorable discharge from service;
 - 2. Neglect or violation of any official duty;
 - 3. Violation of any law of the Commonwealth which provides that such violations constitute a misdemeanor or felony;
 - 4. Inefficiency, neglect, intemperance, disobedience of orders, or conduct unbecoming an officer;
 - 5. Intoxication while on duty; or
 - 6. Engaging or participating in or conducting any political or election campaign for any reason other than to exercise his or her own right of suffrage.

- B. No officer shall be removed for religious, racial or political reasons. A statement of any charges made against any officer so employed shall be furnished to the officer within five (5) days after those charges have been adopted by the Borough Council.

6.3 Punishment

An offense against discipline, good conduct and efficiency, may be punished by:

- A. Removal from service;

- B. Where an employee resigns in lieu of being dismissed, that fact must be reflected in the employee's personnel file.
- C. Reduction in rank;
- D. Reduction in rate of pay;
- E. Suspension without pay for a specified period of time; or
- F. Written reprimand. Note: The concept of an unwritten warning, notice or reprimand is not part of these rules.

6.4 Procedure

No officer shall be suspended, removed or reduced in rank until they have first been provided with a hearing of the type required in *Cleveland Bd. of Pub. Ed. v. Loudermill*, 470 U.S. 532, 105 S.Ct. 1487 (1985) (This is an informal proceeding which does not involve the Commission.). A hearing must occur before the imposition of discipline except when it is imperative that Borough Administrators take immediate action, usually in the form of suspension without pay, to protect the best interests of the Borough, its citizens, taxpayers, and/or the Department. Officers may, if they so request, be accompanied by a fellow officer/union representative during the Loudermill proceeding.

Whenever any police officer is suspended, removed from service or reduced in rank by Council, the Borough Manager, the Mayor or the Chief of Police, the reasons for this action shall be reflected in a written specification of charges. This specification of charges shall include separate, specific statements of each allegation made and shall specify the time, place and occurrence on which the charge is based. The allegations shall be stated clearly and in sufficient detail to enable the accused to understand the charges made against him or her and to be able to answer them, and shall include references to statutory law, Borough ordinances, police department rules and regulations, or any other relevant authority alleged to have been violated. In addition, as to each specific charge, the factual basis for the alleged violation shall be provided.

Within five (5) working days of the receipt of any charges, the Commission shall deliver to the accused, either by personal service or by certified or registered mail, a copy of the charges filed against him or her.

6.5 Hearing on Removal, Suspension or Reduction in Rank

The officer who has been suspended, removed, fined or reduced in rank may appeal the decision of the Borough Council by written notice to the Secretary of the Commission requesting a hearing. Such written demand for hearing must be made and delivered not more than five (5) working days following the officer's receipt of the notice of discipline. The officer may make written answers to any charges filed not later than the date fixed for the hearing. Failure of the officer to provide written answers to any charges shall not be deemed an admission by the officer.

The Commission shall schedule a hearing within ten (10) days of the filing of written charges, unless continued by the Commission for cause at the request of the Commission, the Borough or the officer. At any such hearing, the officer against whom the charges have been made may be present and represented by counsel, may call witnesses and present testimony and documentation in defense. The Borough may also be represented by counsel, call witnesses and present evidence and documentary evidence as is necessary to support the charges. A stenographic record of all testimony shall be taken at every hearing and preserved by the Commission. In the event the charges are dismissed, the record shall be

sealed and not made available for public inspection. It is the right of the officer seeking the hearing to have the hearing open or closed.

In conducting the hearing, the Commission's standard of review shall be to determine whether sufficient evidence has been presented to support the statutory reasons given for the disciplinary action. If the Commission finds that sufficient evidence has been introduced to support the charge, the Commission shall not modify the penalty imposed by the Borough unless it finds that the penalty was arbitrary, discriminatory or an abuse of the Borough's discretion. In considering the appropriateness of the discipline, the Commission may request post hearing briefs, and shall issue a written decision containing specific findings of fact and conclusions of law. The Commission is the finder of facts including, but not limited to, findings regarding credibility

6.6 Notice of Hearing

Notice of the date, time and place for each hearing shall be given in the following manner:

- A. Either by personal service or by certified or registered mail to each of the principals involved in the case, and;
- B. By mailing a notice to all other parties who have stated an interest in the hearing; provided, however, that any failure to give the notice required by this subsection shall not invalidate any subsequent action taken by the Commission.

6.7 Hearing Procedure.

Each hearing shall be conducted in the following manner:

- A. The Chairperson shall call the hearing to order, state the general purpose of the hearing and make note of the parties present;
- B. The Secretary, upon direction of the Chairperson, shall read the charges against the accused together with the record of action taken against such officer;
- C. The Secretary shall read any written reply of the accused;
- D. The Chairperson shall afford each person making charges, or his or her counsel, an opportunity to make further statement in support of the charges and to produce any witness;
- E. The Chairperson shall afford the accused, or his or her council, an opportunity to question or cross-examine the person making charges, and to question or cross-examine any witness produced by such person;
- F. The Chairperson shall afford each person making charges an opportunity to produce any witness and to make a summation;
- G. The Chairperson shall afford the accused, or his or her counsel, an opportunity to produce any witness and to sum up the defense;
- H. The Commission shall be the judge of admissible evidence and procedure, and shall not be bound by technical rules of evidence; and
- I. A stenographic record of all testimony taken at such hearings shall be filed with and preserved by the Commission, which record shall be sealed and not be available for public inspection in the event the charges are dismissed.

The Commission, at any time during the course of the hearing, may question or cross-examine the person making charges, the accused, and any witness. The Commission may appoint and utilize as a "hearing officer" an attorney experienced in Local Agency Law/Civil Service proceedings to advise it, make evidentiary rulings, respond to objections, etc.

6.8 Oaths

All testimony shall be given under oath. The Chairperson, or in her or her absence the Vice-Chairperson, shall administer all oaths.

6.9 Decision of the Commission

Within thirty (30) calendar days after receipt of the completed transcript(s) of the hearing the Commission shall issue its decision in the form of a written order approved by at least two (2) members of the Commission. That written adjudication, to become official, must be adopted by majority vote of the Commission in a public meeting, appropriately advertised pursuant to the Sunshine Law. The written order shall be in the form: findings of fact, conclusions of law, discussion, and order. The only aspect of the adjudication which shall be publicly read, and provided to the public, unless the affected/accused employee has requested an open hearing, shall be the "order" section. If resolving the charges involves the making of credibility determinations, the adjudication shall specify the resolution of those credibility determinations. Necessary findings of fact should be supported by substantial evidence of record. Absent evidence of arbitrary or discriminatory conduct, or an abuse of discretion, the Commission has no authority to modify the penalties imposed by borough officials where the charges brought against the affected/accused officer are found by the Commission to be supported by the evidence and where the penalties are not otherwise prohibited. The findings and decision of the Commission shall be delivered personally or by certified or registered mail to the parties.

6.10 Appeals to Court

In the event the Commission sustains the charges and orders the suspension, removal or reduction in rank, the person so suspended, removed or reduced in rank shall have immediate right to appeal to the Court of Common Pleas of Cambria County, such appeal to be taken by petition to said court within thirty (30) days from the date of entry by the Commission of its final order. The Commission shall note on the letter covering the adjudication to the affected/accused employee that the individual has a right to appeal and that the time for appeal begins to run with receipt of the Commission's adjudication, and that to be timely, any such appeal must be perfected within thirty (30) days from the date of entry by the Commission of its final order. In the event the event that the Commission shall sustain or order a suspension of an employee, that order of suspension shall not be for a period longer than one (1) year.

6.11 Filing of Determinations of the Commission

All Commission findings, decisions and punishments shall be entered in the officer's personnel file. In the event that the Commission fails to uphold the charges, then the officer sought to be suspended, removed or demoted shall be reinstated with full back pay for the period of the suspension, removal or demotion and no charges related to the suspension, removal or reduction in rank shall be officially recorded in the officer's personnel file.

6.12 Furloughs

If for reasons of economy or other reasons, it shall be deemed necessary by the Borough to reduce the number of full time police officers in the Department, the Borough shall use the procedure described in the Collective Bargaining Agreement between the Borough of Ebensburg and the Full-Time Police Officers of Ebensburg Borough in effect at that time. Should no procedure exist in the Collective Bargaining Agreement, the commonly accepted practice of furloughing the person or persons, including probationers, last appointed to the force will be used.

Chapter 7. INSPECTIONS

7.1 Inspection in General

Except as otherwise provided in these Rules and Regulations and by the law, those records of the Commission qualifying as public records shall be open to the public and available for inspection during normal business hours. A member of the Commission, or any person who may, from time to time, be designated by the Commission, shall be present at all time during any inspection of any records of the Commission.

7.2 Inspection of Examination Material

All Commission examination materials shall be confidential and shall not be open to general public inspection. Any examined applicant may inspect his examination papers, provided that:

- A. He makes a written request to the Commission within seven (7) working days from the date the written examination scores were posted, and;
- B. He receives the written consent of the Commission to inspect his examination file;
- C. He makes his inspection within five (5) working days from the date of the mailing of the consent of the Commission.

Before any member of the Commission, or any person designated by the Commission, permits any inspection of examination files, he shall secure the consent of the Commission and he shall limit the inspection by the examined applicant to only those examination files indicated in the letter of consent. No examined applicant shall be permitted to inspect any examination file other than his own.

Chapter 8. Resolution for Adoption of Rules

The foregoing Civil Service Rules and Regulations, which are in accordance with powers granted by the civil service provisions of the Pennsylvania Borough Code, enacted by the General Assembly of the Commonwealth of Pennsylvania and in accordance with the authority granted by the municipal governing body of Ebensburg, Pennsylvania, are hereby adopted by the Civil Service Commission of Ebensburg, Pennsylvania.