

SECTION 6

SUSPENSIONS, REMOVALS AND REDUCTIONS IN RANK

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SECTION 6 - SUSPENSIONS, REMOVALS AND REDUCTIONS IN RANK

§ 6.1 Grounds for Disciplinary Action.

a. Grounds.

No person appointed to a position in the Police Department pursuant to these Rules and Regulations may be suspended, removed and/or reduced in rank except for the following reasons:

1. Physical or mental disability affecting the officer's ability to continue in service, in which case the officer shall receive an Honorable Discharge from service;
2. Neglect or violation of any official duty;
3. Violation of any law of this Commonwealth which provides that such violation constitutes a misdemeanor or felony;
4. Inefficiency, neglect, intemperance, disobedience of orders or conduct unbecoming an officer;
5. Intoxication while on duty;
6. Engaging or participating in conducting of any political or election campaign other than the officer's exercise of his own right of suffrage; or

Any person hired as a municipal police officer shall be ineligible to receive any salary, compensation or other consideration or thing of value for the performance of his duties as a police officer unless he has met all of the requirements as established by the Municipal Police Officers' Education and Training Commission and has been duly certified as having met those requirements by the Commission under 53 P.S. §744 (7).

b. No Removal for Religious, Racial or Political Reasons; Statement of Charges.

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 Township Board of Commissioners. Service to the person accused shall be delivered either by personal service or by certified mail.

§ 6.2 Furloughs.

If for reasons of economy or other reasons, it shall be deemed necessary by the Township to reduce the number of full-time police officers in the department, the reductions shall be effected by furloughing the person or persons including probationers, last appointed to the respective force.

Such removal shall be accomplished by furloughing in numerical order commencing with the person last appointed until such reduction has been accomplished. In the event that the appointing authority decides to increase the Police Department, the furloughed officers shall be reinstated in order of their seniority in the department if the furloughed officer accepts reinstatement in writing within thirty (30) days of receiving notice of the opening. These reductions in force provisions are not applicable to the Chief of Police. [Amended February 10, 2009].

§ 6.3 Notice of Suspension, Removal or Reduction in Rank.

Whenever a police officer is suspended, removed or reduced in rank, the specific charges warranting such actions shall be stated in writing by the Township Board of Commissioners. The charges shall be stated clearly and in sufficient detail to enable the officer to understand the charges against him and to allow the officer an opportunity to respond to those charges. The charges shall specify the subsection of Section 6.1 which provides the basis for the disciplinary action, as well as, an explanation of the factual circumstances upon which the appointing authority relied in finding a violation of Section 6.1.

Within five (5) days after the Board of Commissioners has voted to impose the disciplinary action, a written statement of the charges shall be delivered to the officer either by personal service or by certified mail. In addition, the charges shall notify the officer of his appeal rights under Section 6.4 of these Rules and Regulations. A copy of the statement of charges shall also be served upon the members of the Civil Service Commission.

§ 6.4 Hearings on Suspension, Removals and Reductions in Rank.**a. Right to Appeal.**

The officer who has been suspended, removed or reduced in rank may appeal the decision of the Board of Commissioners by written notice to the Secretary of the Commission at 300 Wetzel Road, Glenshaw, PA 15116 requesting a hearing. This request shall be received by the Commission within ten (10) days after the officer received notice of the discipline. The officer may make written answers to any charges filed against him not later than the date fixed for the hearing. Failure of the officer to provide written answers to any of the charges shall not be deemed an admission by the officer.

b. Hearing on Appeal.

The Commission shall schedule a hearing within ten (10) days from the officer's written request for a hearing unless continued by the Commission for cause at the request of the Commission, the Board of Commissioners 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 on his behalf. The Township may also be represented by counsel, call witnesses and present evidence as is necessary to support the charges. The 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 be available for public inspection.

c. Commission's Standard of Review; Briefs; Written Decision.

In conducting the hearing, the Commission's standard of review shall be to determine whether sufficient evidence has been presented to support the statutory reason 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 Board of Commissioners unless it finds that the penalty imposed was arbitrary, discriminatory or an abuse of the Board's discretion. In considering the appropriateness of the discipline, the Commission shall not substitute its judgment for that of the Board of Commissioners.

The Commission may request post-hearing briefs, and shall issue a written decision containing specific findings of fact and conclusions of law within sixty (60) days of receipt of the hearing transcript.

§ 6.5 Hearing Procedure.**a. Oath; Conduct of Hearing; Sequence.**

All testimony shall be given under oath administered by the Chairperson, or in his absence, the Vice-Chairperson. The Commission shall have power to issue subpoenas as set forth in Section 2.11. The hearing shall be open to the public unless, prior to the commencement of the hearing, a written or oral request to close the hearing is made by either the charged officer or the Township.

Each hearing shall be conducted in the following manner:

1. The Chairperson shall state the general purpose of the hearing;
2. The Secretary, upon direction of the Chairperson, shall read the written charges against the person accused together with the record of action taken against such officer;
3. The Secretary shall read any written reply of the person accused;
4. The Chairperson shall afford each person making charges, or his/her counsel an opportunity to make any further statements in support of the charges and to produce any witness;
5. The Chairperson shall afford the person accused, or his/her counsel, an opportunity to question or cross-examine any person making charges, and to question or cross-examine any witness produced by such person;
6. The Chairperson shall afford each person making charges an opportunity to examine the person accused;
7. The Chairperson shall permit each person making charges, or his/her counsel, to make a summation;
8. The Chairperson shall afford the person accused, or his/her counsel, an opportunity to produce any witness and to sum up the defense.
9. A stenographic record of all testimony taken shall be filed with and preserved by the Commission, which record shall be sealed and not 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 any person making charges, the person accused, and any witness.

Within thirty (30) calendar days after 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. The written order shall include all findings of fact. If during the public hearing, opposing facts are presented, the Commission shall include in its written order its decision as to the correct facts. The findings and decision of the Commission shall be certified to any person making charges, to the accused officer, and to the Board of Commissioners.

b. Appeal to the Court of Common Pleas.

If the Commission sustains the charges, the officer who was suspended, removed or reduced in rank may file an appeal with the Court of Common Pleas within thirty (30) days from the date of entry by the Commission of its final order. No order of suspension shall be made by the Commission for a period longer than one (1) year. In the event that the Commission fails to uphold the charges, then the person sought to be suspended, removed or demoted shall be reinstated with full 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 against his record.