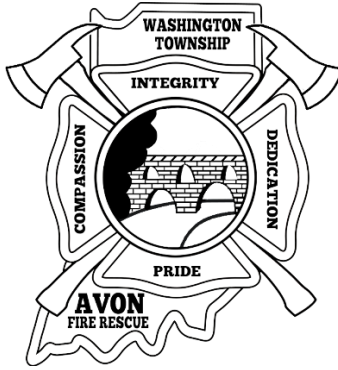




Avon Fire Department of Washington Township

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Merit Commission Handbook

Updated 03/2025

The Merit Commission Rules and Regulations are being published for the guidance and governing of the merit members of Avon Fire Department of Hendricks County pursuant to Indiana Code IC 36-8-3.5

Preface

The Merit Commission Handbook has been developed to provide guidelines and assist new and continuing Commission members to better understand the general principles and operating issues of membership.

The Merit Commission's Rules and Regulations are being published for the guidance and governing of the Merit Commission Members of the Avon Fire Department of Washington Township (Avon Fire Department or AFD here forward), pursuant to the Indiana Code IC 36-8-3.5 et. seq.

Commissions vary in their authority and power, and members are encouraged to review the specific responsibilities for the Commission to which they have been appointed.

Suggestions, improvements, and questions regarding this handbook should be directed to the IAFF District VP and Fire Chief. Once notified and considered, we will jointly notify the Commission President.

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I. Welcome to the Avon Fire Department of Washington Township Merit Commission

Congratulations on being appointed as a Merit Commission member! The Merit Commission Board and the Avon Fire Department appreciate your active participation in the hiring, promotional processes, and disciplinary oversight for our community.

As a citizen volunteer serving on a Commission, you are a member of a select group. Citizen input and participation is a valuable asset to any government organization and assists the Township Administration with its goals and decision-making, thereby benefiting the community as a whole.

Being a Commission member is often demanding, as it takes a substantial commitment of time and hard work, but it will be an exciting and rewarding experience as you help shape the future of our community.

We hope this handbook will help prepare you to serve as a member of the Avon Fire Department of Washington Township Merit Commission.

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II. Administrative Rules and Procedures

Purpose of Commission

The purpose of the Merit Commission is to establish the process for and the oversight of the selection, promotion, performance review, and discipline of sworn firefighters and operational EMS personnel of the Avon Fire Department. The Fire Chief shall assign administrative staff as appropriate to serve as liaisons between the Fire Department, Township Board, and the Merit Commission. The Merit Commission does not create or adopt standard operating guidelines for the Fire Department. The Merit Commission establishes eligibility lists for probationary firefighters, operational EMS personnel, and defined officer ranks resulting from selection and promotion processes that have been administered by the Department according to the Commission's rules and statutory requirements. The Commission is responsible for approving employment offers to probationary firefighters and operational EMS personnel from the certified eligibility lists. The Commission is further responsible for recommending firefighters to the Chief for promotion from the certified eligibility lists. The Commission also, upon request only, can review cases involving lesser discipline and oversees more serious disciplinary matters when such discipline is recommended by the Chief in accordance with rules found in IC 36-8-3.5.

Public Information

The general public can obtain information on programs and activities of the Merit Commission by contacting the Washington Township of Hendricks County Office located at 311 Production Drive, Avon IN 46123. All written requests will be handled in accordance with the Access to Public Records Act (APRA). Merit Law, the current rulemaking procedure of the Merit Commission is set forth in the merit law section of the Indiana Code, IC 36-8-3.5. et. al.

Basis For Rules

Pursuant to Indiana Code found in 36-8-3.5, this Administrative Handbook shall serve as the governing rules for the Merit Commission for the Avon Fire Department.

Organization of the Merit Commission

A merit commission consisting of five (5) commissioners shall be established for each department of a unit having a merit system as set forth in IC 36-8-3.5-6.

Appointment, Election, and Qualification of Commissioners

Commissioners must be legal residents of Washington Township and have maintained that residency for at least three (3) years prior to appointment. Commissioners must be at least twenty-one (21) years of age and must be a person of good moral character. Commissioners may not be active members of a police or fire agency and no more than two (2) Commissioners may be past members of a police or fire agency. No Washington Township employee can serve on the Commission.

Selection shall be as follows:

- two (2) persons, who must be of different political parties, appointed by the unit's executive;
- one (1) person appointed by the unit's legislative body; and
- two (2) persons, who must be of different political parties, elected by the active members of the department. Elected commissioners may be recalled and replaced as defined in 36-8-3.5.

Each Commissioner shall take an oath of office to conscientiously discharge the Commissioner's duties. A signed copy of the oath shall be filed in the Washington Township Office. They shall serve four (4) year alternating terms at the pleasure of their respective appointing/electing authority.

Merit Commission Meetings/Executive Sessions

As outlined in IC 36-8-3.5-9, the Commission meetings shall be held at a time and place as determined by a majority of the Commission. The Commission shall meet as frequently as they deem necessary to conduct their business. All meetings shall be held in person to allow public attendance unless otherwise

permitted by law or executive order. Public notice of the date, time, and place of any meeting, executive session, or of any rescheduled or reconvened meeting, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. All meetings shall be held in compliance with the Indiana Open Door Law.

Each year the commissioners shall select from among the commissioners a president, vice president, and secretary. The commission shall keep a permanent record of its proceedings.

Merit Commission Special Meetings

If a special need arises between regular meeting times, a special meeting may be called, with forty-eight (48) hour notice and posting of the meeting date, time, and location. The special meeting may be at the request of the Fire Chief or designee, the Township Trustee, President of the Commission or majority of the Commission. Reasons for special meetings may include, but are not limited to, disciplinary appeals, approval of suspension over 40 hours, unforeseen change in hiring, selection, or promotion processes, or unforeseen vacancies in rank or positions.

Time and Place of Meetings

The Commission will establish and advertise a schedule for regular meetings and meeting frequency at the beginning of each year. When establishing the schedule, the Commission will consider input from the Fire Chief or his/her designee regarding anticipated needs in the coming year for selection, appointment, and promotion processes. Meetings will normally occur at the Fire Department Headquarters. At least forty-eight (48) hours prior to a regular meeting, notice will be posted at the meeting location. If there is no anticipated business, upon approval of the President or designee of the Commission, a regular meeting may be canceled by posting notice prior to the regular scheduled meeting.

Quorum

A quorum for the transaction of business at monthly or special meetings of the Commission shall be three (3) members qualified to vote. A majority vote of all the commissioners present is necessary to transact the business of the commission.

Merit Commission Meeting Procedure

Most meetings shall be conducted within normal business principals and the guidelines of Roberts Rules of Order, newly revised. The Commission may adopt any special rules of order needed to conduct normal business in which they are applicable and in which they are not inconsistent with the Merit Law (IC 36-8-3.5).

Merit Commission Minutes

A recording secretary may be provided by the Township, and the Commission Secretary is then responsible for oversight and approval of the output of the recording secretary. A court reporter may record the proceedings of a formal appeals hearing if requested by the appealing employee, the Department or the Commission. Minutes of meetings shall be maintained in a file available at Avon Fire Department Headquarters. Records of selection and promotion processes and disciplinary proceedings, which include confidential information, shall be separately retained and secured at Fire Headquarters.

The minutes shall include the following:

- 1) The date, time, and place of the meeting.
- 2) The members of the Commission are recorded as either present or absent.
- 3) The general substance of all matters proposed, discussed, or decided.
- 4) A record of all votes taken by individual commissioners if there is a roll call.
- 5) Any additional information required under section 3.5 or 3.6 of this chapter or any other statute that authorizes a governing body or commission to conduct a meeting using an electronic means of communication.

Budget

The commission shall submit a proposed annual budget to the Washington Township Board the same as other budgets of Avon Fire Department are submitted. The Washington Township Board shall include in its fire department budget an amount sufficient for the necessary expenses of the commission.

Ex parte communication

Ex-parte communications with anyone regarding any matter pending before the commission is prohibited. All Commission members are encouraged to discuss any concerns that they may have with a particular matter with legal counsel.

Employee Classification Plan

The Commission will review the Job Descriptions (JD) requiring Commission approval under the Classification Plan. The Commission will approve those employees which meet the requirements that conform to the following currently acceptable principles of position classification in the merit system:

- 1) Definitive description of duties, including a clear statement of distinguishing features and illustrative duties;
- 2) Identifiable differentiation between classes and levels of classes;
- 3) Progression between classes;
- 4) Provision for reasonable and valid basis of merit selection through examination;
- 5) Consistency of requirements for, and duties of, a given class;
- 6) Consistency within classes regarding difficulty, complexity, and nature of work;
- 7) Consistency with other classes similar in difficulty, complexity, and nature of work. In the event that it can be reasonably anticipated that employee layoffs will result by virtue of class specification revisions, the Fire Chief will supply to the Commission, prior to review, full detailed information respecting such prospective layoffs.

Merited employees consist of the following classifications;

Fire (all positions require EMT-B at minimum):

- 1) Firefighter
- 2) Engineer (*not required for promotion to LT*)
- 3) Lieutenant

EMS (all positions require EMT-P at minimum):

- 1) Paramedic
- 2) Field Training Officer (FTO) Paramedic

Personnel Rules

The Commission will be advised of new rules or amendments to existing rules submitted by the Fire Chief. This will not be for approval or acceptance, but for information regarding decisions in relation to reported violations that may lead to employee discipline.

Filing and Form of Papers

- 1) If not served electronically by e-mail to the Fire Chief or Union Representative, the original copy of any complaint, appeal, pleading, written motion, notice or other documents shall be on 8½ x 11 paper and filed in Fire Department Headquarters for review by the Commission. Documents shall be signed in ink by the party filing them or by his representative and contain the address and telephone number of the party, or, if represented, the name, business address and telephone number of such representative.
- 2) Copies of all filed documents shall be served on all known parties to proceedings, and notice of such service shall be given to the Commission.
- 3) For the purpose of determining the timeliness of filing only, "receipt" is herein defined to mean either email date, personal delivery or date, or postmark when deposited in the U.S. mail, in a sealed envelope, with postage prepaid, and properly addressed. If the last date for filing falls upon

a weekend or legal holiday, the last date for filing is the first business day following such weekend or legal holiday.

Notice

Notice to a designated representative is notice to his/her client. Notice to an employee who is not represented shall be served at the address specified in the employee's appeal or, in the absence of such specification, to the last address shown in the employee's personnel file. Notice shall be served with a copy sent to the Division or Department Head, and to all appropriate managers.

Time and Conduct of Hearings

The Commission shall grant the parties a hearing within 30 calendar days for matters for which a party may be entitled to a hearing following actual, in hand receipt of a written request, except for cases involving position allocation, geographical transfer, and violation appeals. Parties may mutually agree to an extension of the 30-day time period. All disciplinary hearings shall be public, but individuals displaying disruptive behavior may be barred. Each party may call witnesses to testify on his/her own behalf and to have the aid of counsel at his/her own expense. The respective parties may cross-examine opposing witnesses and present documentary and demonstrative evidence. The hearing need not be conducted according to the technical rules relating to evidence and witnesses.

Motions

- 1) If any party objects to the written charges, or other matters, the Commission favors the practice of submitting motions outlining such objections prior to the date of the hearing.
- 2) The motion shall point out specifically the defects complained of, and shall ask for appropriate relief, such as: the action be dismissed, or a charge be made more definite and certain in a specified particular, or designated immaterial matter be stricken, and so forth. The Hearing Officer shall rule and enter an appropriate order either to permit or require pleading over or amending or terminating the matter in the whole or in part.

Continuances and Extensions

The Commission or a Hearing Officer appointed by it to conduct a hearing may, at its discretion, for good cause shown, on timely motion, after notice to the opposite party, extend the time for filing any pleading or documents or may continue the date of a scheduled hearing for a limited period.

- 1) Motions for extensions or continuances are not timely unless asserted at least 48 hours prior to the time scheduled for filing or hearing except for emergencies.
- 2) The granting of a request for continuance by the employee in a discharge appeal will constitute a voluntary waiver by him/her of any claim to compensation for the period of such continuance if he/she is ordered retained in his/her position.

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III. MERIT COMMISSION REGULATIONS

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SECTION I - APPLICABILITY OF INDIANA MERIT LAW

- A. Title.** This document shall set forth the Avon Fire Department of Washington Township Merit Commission Rules and Regulations.
- B. Definitions.** As used throughout the Avon Fire Department Merit Commission Rules and Regulations:
- 1) “Commission” means the Avon Fire Department of Washington Township Merit Commission.
 - 2) “Department” means the Avon Fire Department.
 - 3) “Governing Board” means the Washington Township Board.
 - 4) “Merit Commission Rules” or “Rules” means the Avon Fire Department of Washington Township rules and regulations
 - 5) “Merit Law” or “Indiana Merit Law” means the Indiana Merit Statute, I.C. § 36-8-3.5 et seq. as amended and supplemented by the Commission from time-to-time.
- C. Application of Indiana Merit Law.** With no initial objections in 2024, Indiana Merit Law System, as amended and supplemented herein is implemented as of January 1, 2025. The Commission will continue to operate pursuant to the language contained in the Merit Law, as that Merit Law is amended from time to time. The statutory materials accompanying these Rules are current as of the date these Rules are distributed. While the Commission and the Department will endeavor to notify Members of amendments to the Merit Law, Members are responsible for keeping themselves informed of any changes in the Merit Law.
- D. Invalidation of Merit Commission Rules.** If any of the Merit Commission Rules shall be invalidated for any reason, the remainder of the Merit Commission Rules shall continue in full force and effect prior to and during the correction of this document.

SECTION II - NEW HIRE REQUIREMENTS '77 Fund Member (Firefighter)

- A. Notice:** Applicants will be notified of the Department’s intent to hire through a minimum of two types of communication to include, but not limited to:
- 1) Social Media
 - 2) Job Search Engines
 - 3) Print Media
 - 4) Job Fairs
 - 5) Public Events
- B. Requirements:** To be considered for hire, applicants must:
- 1) Be citizens of the United States.
 - 2) Possess a high school diploma or equivalent.
 - 3) No felony convictions or disqualifying criminal history
 - 4) Have adequate means of transportation into the jurisdiction served by the member’s department; and maintain telephone service to communicate with the department.
 - 5) Possess or have the ability to obtain a valid Indiana driver’s license or beginner’s permit and must acquire and maintain a valid license without restriction due to traffic violations by the time of appointment and throughout the applicant’s career.
 - 6) Be able to read, write, speak, understand, and otherwise communicate fluently in the English language.
 - 7) Be a minimum of 18 years of age but under 40 years of age. Unless waiver granted for Military Service in-line with Indiana Code.
- C. Process:** Applicants shall be rated on selection criteria and testing methods developed by the Department and adopted by the Commission prior to the hiring process in accordance with I.C. 36-8-3.5-12(e), as amended. The following is an overview of the events normally comprising the hiring process. These events may or may not be in the sequence set forth below:

- 1) Application;
- 2) Background Check;
- 3) Official Driving Record (ODR);
- 4) Physical Agility Testing (CPAT)
- 5) 3rd Party Written general aptitude test;
- 6) Oral interview;
- 7) Eligibility list developed;
- 8) Eligibility list certified by Merit Commission
- 9) Aerial ladder climb
- 10) Notification to the applicant of a conditional offer of employment;
- 11) Approval through the Indiana Public Retirement System (INPRS); and
- 12) Swearing in.

Description:

- A. Application.** With the application, applicants will receive a job description for probationary firefighter and a notice of the next steps. Any applicant who does not return the completed application within the time limits set will not be allowed to continue with the hiring process.
- B. Background Check.** A background check will be completed at the expense of the applicant by the provider of record for Washington Township.
- C. Official Driving Record (ODR).** An official driving record will be completed at the expense of the applicant through the BMV.
- D. Written General Aptitude Test.** Applicants are required to take and pass a written general aptitude test reflecting the essential functions of the job. The test date, place, and starting time will be announced in writing to each applicant; tardiness may cause the applicant to be removed from the hiring process.
- E. Oral Interview.** Applicants will answer questions from an oral interview board that is comprised of state certified firefighters. The questions will be identical for each applicant and each applicant will be rated on his/her answers.
- F. Physical Agility Test.** Applicants must have satisfactorily completed the Candidate Physical Ability Test (CPAT), and hold a current card or certificate that displays date of the test not exceeding the year prior and satisfactory status. This card shall be presented to test or interview depending on timelines set forth in the process.
- G. Establishment of Minimum Score.** A minimum score of 70% must be obtained on each component of the hiring process.
- H. Development of Eligibility List.** Applicants who obtain passing scores as determined will be placed on a hiring eligibility list in order from highest to lowest as computed by scores resulting from the oral interview and/or the written test and/or formal education, military experience, Fire/EMS certifications, or any combination thereof.
- I. Certification of Eligibility List.** The hiring eligibility list will be presented to the Commission for certification. The hiring eligibility list prepared as a result of an applicant screening process shall be in effect for two years or until a new eligibility list is certified by the Commission, whichever occurs first. A person who is not selected for appointment may reapply as an applicant.
- J. Conditional Offer of Employment.** When a vacancy occurs in the Department, the Chief, with the approval of the Commission, shall make a conditional offer of employment as a probationary firefighter to such applicant or applicants as are necessary to fill any vacancies which exist in the Department by taking the applicant having the highest score on the eligibility list and proceeding down the list in order to fill eighty percent of such vacancies. The Chief, with the approval of the Commission, shall make a conditional offer of employment for the remaining twenty percent of the vacancies by selecting any person remaining on the final eligibility list based on the needs of the Department.

- K. Indiana Public Retirement System (INPRS) Approval.** Those applicants receiving conditional offers of employment shall be required to take and pass a pension physical and psychological examination, the results of which are subject to review by INPRS.
- L. Swearing in Ceremony.** Appointment to the Department will occur at the swearing-in ceremony. Every person appointed shall subscribe to and take **the** Oath of Office.
- M. Probationary Status.** Applicants hired will become employees of Washington Township of Hendricks County, Indiana, and will be members of the Avon Fire Department. Members will remain on a probationary status for a period of one year from the date of hire and are subject to all the rules and regulations of the Department. Upon request of the Chief of the Department stating that the conduct or capacity of the probationary Member is unsatisfactory, the Commission may dismiss any probationary Member of the Department, without hearing or right of appeal, so long as the request is delivered to the Commission within the Member's probationary period.
- N. Order of Seniority.** For those Members hired to participate in a common recruit class and who successfully complete the recruit class, seniority within that class shall be determined by the Members' hire date and order of finish in the recruit class as determined by combined test and evaluation scores during that class.
- O. Orientation.** For a period of up to 28 weeks, unless granted an extension by the Department, members hired will be required to take and pass the following:
- 1) The State approved Emergency Medical Technician (EMT) class and State Certification Examination;
 - 2) The State approved Firefighter I and II class and State Certification Examination;
- P. Certification of Emergency Medical Technicians.** All members, after becoming state certified as emergency medical technicians, must maintain a minimum of EMT-B certification throughout their employment with the Department. Members who are certified as EMT's at the time of employment must successfully pass the Department's written EMT test and practical skills test, and maintain the certification and medical affiliation throughout their employment.
- Q. Certification of Firefighters.** Probationary firefighters who take and fail to pass the state firefighter course for probationary firefighters will be subject to termination. If certified as a firefighter, the probationary firefighter must successfully pass the Department's firefighter written and practical tests.
- R. Licensure of Paramedics.** Members hired as Paramedics will also be required to be licensed as a paramedic by the State of Indiana Emergency Medical Services Commission at the time of appointment and maintain the license and medical affiliation for the period that they are functioning as a paramedic with the Department.
- S. Joint Hiring Board.** The Chief shall have the authority to enter into a joint hiring board process with other departments with the approval of the Commission. Any process changes beyond what is stated in this manual must be presented for approval by the Commission.

SECTION III - LATERAL HIRE REQUIREMENTS

Firefighter

- A. Notice:** The Department, with notification to the Merit Commission, may choose to fill a vacant position with a lateral entry Firefighter in the following instances:
- 1) Growth
 - 2) Vacancy(s) where an academy is not scheduled
 - 3) Retirement(s)
 - 4) Disability retirement
 - 5) Military deployment in conjunction with vacancies
 - 6) Resignations or Terminations
 - 7) Any of the above in conjunction with vacancies
- B. Requirements:** The Commission requires the following criteria when this process is used
- 1) US Citizen
 - 2) Current career firefighter with minimum 2 years of service with a full-time career fire department
 - 3) Current EMT-B or EMT-P license or the ability to obtain Indiana Reciprocity
 - 4) State of Indiana Firefighter II or certification through IFSAC or ProBoard
 - 5) No felony convictions or disqualifying criminal history
 - 6) High school diploma or equivalent
 - 7) 20 years of age or older
 - 8) Possess a valid Driver's License
 - 9) Eligibility for the Indiana Public Retirement System (INPRS)
- C. Process:** The Commission requires the following steps be completed for this process to be valid
- 1) Complete the Avon Fire Department approved Employment Application
 - 2) Obtain Official Driving Record (ODR)
 - 3) Complete criminal background check
 - 4) Complete the Oral Interview
 - 5) Certification of list by the Merit Commission with a 6-month expiration and month to month option to extend with notification to the Commission.
 - 6) Pass pre-employment drug screen
 - 7) Must have completed an approved fire department physical compliant with NFPA 1582 within the last year and provide a copy or pass a compliant physical.
 - 8) Non INPRS career firefighters must pass all requirements necessary to be accepted into the Indiana Public Retirement System (INPRS).
- D. Conditional Offer**
- E. Upon Employment:** Candidate Must
- 1) Be sworn in by the Trustee or their designee
 - 2) Complete pre-determined training requirements prior to assignment to the operating companies
 - 3) Complete hospital affiliation requirements
 - 4) Successfully complete the Work Performance Evaluation
 - 5) Complete 1 year of probation from date of hire

All Lateral Transfer Firefighters will receive 1 year of service credit for every 2 years served as a career firefighter, up to a maximum of 5 years of credit. These credited years will be applied to Salary, Back-up Engineer and Officer Programs, Promotional Processes, PTO Accrual, and Longevity.

For the purposes of station bid, annual PTO picks, and promotional points the Candidate's seniority begins at date of hire.

When a member hired does not participate in a full common recruit class (firefighter and EMS training), seniority shall be determined by a qualitative method derived from one or more of the following elements as applicable:

- 1) Final Fire class scores only
- 2) Final EMS class scores only
- 3) Order of finish on the hiring list
- 4) If employees are hired on the same date as an employee in a different classification, seniority will be based on date eligibility of shift assignment.

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SECTION IV - PARAMEDIC HIRE REQUIREMENTS

Paramedic

- A. Notice:** The Department, with notification to the Merit Commission, may choose to fill a vacant medic position with a Paramedic in the following instances:
- 1) Growth
 - 2) Retirement(s)
 - 3) Disability retirement
 - 4) Military deployment in conjunction with vacancies
 - 5) Resignations or Terminations
 - 6) Any of the above in conjunction with vacancies
- B. Requirements:** The Commission requires the following criteria when this process is used
- 1) US Citizen
 - 2) Minimum 2 years of EMS Experience
 - 3) Current Indiana EMT-P license or NREMT-P license and the ability to obtain Indiana Reciprocity by date of hire.
 - 4) No felony convictions or disqualifying criminal history
 - 5) High school diploma or equivalent
 - 6) 20 years of age or older
 - 7) Possess a valid Driver's License
- C. Process:** The Commission requires the following steps be completed for this process to be valid
- 1) Complete the Avon Fire Department approved Employment Application
 - 2) Obtain Official Driving Record (ODR)
 - 3) Complete criminal background check
 - 4) Complete the Oral Interview
 - 5) Certification of list by the Merit Commission with a six-month expiration date and the option to extend the list month to month with notice to the Commission.
 - 6) Pass pre-employment drug screen
 - 7) Must have completed an approved fire department physical within the last year and provide a copy or pass a compliant physical.
and
 - 8) Complete a psychological evaluation for safe operation in the field.
- D. Conditional Offer**
- E. Upon Employment:** Candidate Must
- 1) Be sworn in by the Trustee or their designee
 - 2) Complete pre-determined training requirements prior to assignment to the operating companies
 - 3) Complete hospital affiliation requirements
 - 4) Successfully complete the Work Performance Evaluation
 - 5) Complete 1 year of probation from date of hire
- F. Paramedic License:** Members hired as Career Paramedics will be required to maintain medical direction affiliation and be licensed as a paramedic by the State of Indiana Emergency Medical Services Commission at the time of appointment. Their license shall be maintained for the duration of their employment. Failure to maintain their license shall result in recommendation for termination to the Commission.

SECTION V - PERFORMANCE EVALUATIONS

- A. General and Job-Specific Performance Evaluation.** The Department shall administer, on an annual basis, a General Performance Evaluation for every member of the Department in accordance with I.C. 36-8-3.5-15, as amended.
- B. Probationary Employees.** A probationary member shall receive an evaluation upon the completion of required initial training, and at least every month thereafter until completion of their probationary period.
- C. Promoted Employees.** Following a promotion, a member shall receive an evaluation every month after the date of promotion for the duration of their probationary period.

SECTION VI - PROMOTIONAL PROCESS

Members participating in the Commission's promotional process shall be rated on selection criteria and testing methods developed by the Department and adopted by the Commission before the promotional process. The following is a detail of the events comprising the promotional process. These events may or may not be in the sequence set forth below, and the Commission will be notified of the sequence of events before each promotional process. In addition, the Commission may determine that certain events or requirements (e.g., educational, requirements, registration requirements, and assessment standards) will be added to or deleted from the promotional process described below during normal reviews of the process.

- A. Promotional Ranks.** The promotional ranks within the Department are:
 - 1) Lieutenant;
 - 2) Engineer (*not required for promotion to LT*);
 - 3) Field Training Officer (FTO) Paramedic
- B. Job Descriptions.** Each position shall be described in a written classification (job description) and included in the Avon Fire Department of Washington Township Rules and Regulations.
- C. Qualifications.** Employees must meet a minimum years of credited service per Job Description to be eligible for promotion. Each position has educational prerequisites that must be met before the promotional process is started.
- D. Eligibility List.** To be considered eligible to participate in the promotional process the individual must meet the requirements set forth by the Avon Fire Department of Washington Township by the deadline stated in the process announcement documentation.
- E. Registration.** All members of the Avon Fire Department will be notified, via E-mail or otherwise, of a promotional process. Members wishing to participate in the process will indicate his/her intention to participate by emailing the Deputy Chief of Operations or their designee within the timeframe communicated in the announcement documentation. At the close of the registration period, each candidate for promotion will receive a promotional packet (electronic or otherwise). The promotional packet will describe details about the process, list reading requirements, sources for reading requirements, percentages for scoring, contact personnel for questions, and dates on which aspects of the promotional process will occur.
- F. Overview of Promotional Process.** In accordance with I.C. 36-8-3.5-13(a), the Commission shall determine the weight of each component for the specified promotional process.
- G. Disqualification.** If any candidate for promotion is late for any part of the promotional process or receives disciplinary action resulting in suspension throughout the promotional process, he/she will be withdrawn from the promotional process.
- H. Written Examination**
 - 1) Assigned reading materials will be made available in hard copy or electronic form. Additional copies may be purchased by the individual. Candidates should make sure that the edition and title are the same as the assigned reading materials. Candidates for promotion

- shall be notified that the questions on the written test will be taken from the reading materials that are listed as assigned reading materials in the promotional booklet.
- 2) The specific dates, times, and locations for the exams will be published at least two (2) weeks prior to the exams. There will be no allowances for make-up testing; candidates must arrange their schedules appropriately. Exceptions may be considered at the discretion of the Fire Chief or designee with approval of the Merit Commission President.
- I. Oral Interview.** The next phase of the promotional process will be a structured oral interview. The interviews will be scheduled over a period of time starting the week after the written tests. The times and dates will be announced so that each candidate may attend the interview off-duty. The structured oral interview is meant to assess a candidate's ability to respond to critical questions which may be posed by superiors and subordinates. The interview will be conducted by a Promotional Interview Board as determined by the Deputy Chief of Operations or their designee.
- J. Assessment Center.** Another phase of the promotional process is the assessment center. The assessment center exercises will occur at the same time as the oral interviews. The assessment center exercises may include presentations to the Board, oral interview exercises involving memos, group discussions, problem analysis, or simulated situations. This phase of the process examines the job-related behavioral tasks and job duties. The job-related tasks and duties will be those of the rank the candidate is competing to attain. The Promotional Interview Board that evaluates the oral interview will also evaluate the assessment center exercises.
- K. Independent Review.** The Commission may utilize an outside, independent agency to act on its behalf to construct, evaluate, administer, grade, and report on the written test questions, the oral interview questions, and the assessment center evaluations. A Promotional Development Committee will be convened to review and approve written questions, oral questions, and the assessment center exercise recommended by the outside agency.
- L. Appeal and Review Process.** After testing has concluded, each candidate will be allowed to submit written challenges on questions from the written test. The challenges will be submitted to the Promotional Development Committee for action. If a problem is found with a question and the question is thrown out, the question will be thrown out for all candidates.
- M. Establishment of Promotional List.** After the review session is complete, the Promotional Development Committee and/or the outside agency shall tabulate scores for all candidates and shall submit them to the Commission. After the scoring process, the Commission shall establish a promotional list for each rank, ranking personnel on their respective list in order of their cumulative scores on all rating factors. The eligibility list is valid for a period of two (2) years.
36-8-3.5-14
- N. Establishment of Minimum Score.** Excluding the candidate profile section, a minimum cumulative score of **70% must be obtained** by the candidate for their score to be considered for the certified promotion process list.

SECTION VII - DISCIPLINARY ACTIONS

Both the Chief of the Department and the Commission may take disciplinary action against a member of the Department. The policies and procedures for such disciplinary actions are more fully set forth in the statutory materials accompanying these Rules. All members are urged to review these materials carefully to ensure an understanding of the disciplinary process. The disciplinary process may be found in I.C. 36-8-3.5-17, 18, 19, as amended. The following is merely an overview of the two ways in which disciplinary actions may be administered.

- A. Preferring of Charges.** If the Chief of the Department prefers charges against a member for certain breaches of the Department's Rules and Regulations that results in a certain recommended discipline, the member is entitled to request a hearing on the matter. The member has certain review/appeal rights for such disciplinary actions and there are important time limitations on such review/appeal rights.
- B. Summary Disciplinary Action.** The Chief of the Department may issue or execute discipline, without a hearing, reprimand or suspend a member without pay for a maximum of forty (40) hours. In such cases of disciplinary action, a notification of the discipline will be sent to the Commission within 48 hours. A member may have the right to request that the Commission review the reprimand or suspension and either uphold or reverse the Chief's decision. Again, there are important time limitations on such review rights.

SECTION VIII - REHIRING OF PREVIOUS MERIT FIREFIGHTERS & PARAMEDICS

- A. Purpose.** The purpose of this policy is to establish guidelines for the re-employment of former members of the Department who previously resigned from Departmental employment with no disciplinary action or pending proceedings.
- B. Conditions of Rehire.** Absent compelling circumstances, the following will apply as conditions of re-employment:
 - (1) The applicant must successfully complete the applicant requirements outlined in the Rules.
 - (2) The applicant will be solely responsible for repayment of any funds necessary for INPRS or PERF reinstatement.
 - (3) Candidate will be a "probationary employee" for a period not to exceed one (1) year from the date of rehire.
 - (4) The rehired member shall achieve seniority based only upon his or her re-hire date.
 - (5) Time in grade requirements for promotional processes shall begin with the member's re-hire date.
 - (6) This section does not apply to employees rehired as part of the Lateral Transfer Process.

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IV. MERIT LAW

IC 36-8-3.5 Chapter 3.5. Police and Fire Merit Systems

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- [36-8-3.5-0.2](#) "Commission"
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- [36-8-3.5-1](#) Retention of existing systems; establishment of new system
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- [36-8-3.5-22](#) Rules; printing; copies to department members; effective date
- [36-8-3.5-23](#) Offense; furnishing information to applicants

IC 36-8-3.5-0.1 Application of chapter

Sec. 0.1. This chapter applies to the following:

- (1) A municipality or township that has a full-time paid police or fire department.
- (2) A fire protection district established under [IC 36-8-11](#).
- (3) A fire protection territory established under [IC 36-8-19](#).

As added by P.L.207-2023, SEC.2.

IC 36-8-3.5-0.2 "Commission"

Sec. 0.2. As used in this chapter, "commission" refers to the merit commission for a merit system established under this chapter.

As added by P.L.207-2023, SEC.3.

IC 36-8-3.5-0.3 "Department"

Sec. 0.3. As used in this chapter, "department" refers to:

- (1) the police department of a unit;
- (2) the fire department of a unit;
- (3) a district; or
- (4) a territory.

As added by P.L.207-2023, SEC.4.

IC 36-8-3.5-0.4 "District"

Sec. 0.4. As used in this chapter, "district" refers to a fire protection district established under [IC 36-8-11](#).

As added by P.L.207-2023, SEC.5.

IC 36-8-3.5-0.5 "Governing board"

Sec. 0.5. As used in this chapter, "governing board" refers to the following:

- (1) In the case of a fire protection district, the board of fire trustees appointed under [IC 36-8-11-12](#).
- (2) In the case of a fire protection territory, the body or board delegated the responsibilities for overseeing the hiring, promotion, conduct, and discipline of the members of the department by the terms of the interlocal agreement entered into by the participating units of the fire protection territory.

As added by P.L.207-2023, SEC.6.

IC 36-8-3.5-0.6 "Territory"

Sec. 0.6. As used in this chapter, "territory" refers to a fire protection territory established under [IC 36-8-19](#).

As added by P.L.207-2023, SEC.7.

IC 36-8-3.5-1 Retention of existing systems; establishment of new system

Sec. 1. (a) This section applies only to a municipality or township that has a full-time paid police or fire department.

(b) A municipality may exercise the power of establishing a merit system for its police or fire department under this chapter or by ordinance adopted under [IC 36-1-4-14](#). A township may exercise the power of establishing a merit system for its fire department under this chapter or by resolution under [IC 36-1-4-14](#). This chapter does not affect merit systems established:

- (1) by ordinance under [IC 36-1-4-14](#), except as provided by subsection (f) and section 19.3 of this chapter;
- (2) by resolution under [IC 36-1-4-14](#), except as provided by subsection (g) and section 19.3 of this chapter; or
- (3) by a prior statute, except as provided by subsection (c) and section 19.3 of this chapter.

(c) If a city had a merit system for its police or fire department under the former [IC 18-4-12](#), [IC 19-1-7](#), [IC 19-1-14](#), [IC 19-1-14.2](#), [IC 19-1-14.3](#), [IC 19-1-14.5](#), [IC 19-1-20](#), [IC 19-1-21](#), [IC 19-1-29](#), [IC 19-1-29.5](#), [IC 19-1-31](#), [IC 19-1-31.5](#), or [IC 19-1-37.5](#), it may retain that system by ordinance of the city legislative body passed before January 1, 1983. The ordinance must initially incorporate all the provisions of the prior statute but may be amended by the legislative body after December 31, 1984. The ordinance retaining the system must be amended, if necessary, to include a provision under which the commission (or governing board of the merit system) has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must:

- (1) be a person of good moral character; and
- (2) except for a member of a fire department having a merit system established under [IC 19-1-37.5](#), not be an active member of a police or fire department or agency.

(d) After December 31, 1984, the legislative body also may repeal the ordinance described in subsection (c), but the legislative body shall in the repealing ordinance concurrently establish a new merit system under section 3 of this chapter. (This subsection does not require the legislative body to establish a new merit system when it exercises

its power to amend the ordinance under subsection (c).) After the new merit system takes effect, all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

(e) If a city had a merit system for its police or fire department under a prior statute but fails to retain that system under subsection (c), the city legislative body shall, before July 1, 1983, pass an ordinance to establish a new merit system under section 3 of this chapter. If the new merit system is approved as provided by section 4 of this chapter, it takes effect as provided by that section. However, if the new merit system is rejected under section 4 of this chapter, within thirty (30) days the city legislative body shall adopt an ordinance to retain the prior merit system. The prior merit system remains in effect until the new merit system takes effect, after which time all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

(f) An ordinance adopted under [IC 36-1-4-14](#) to establish a police or fire merit system must include a provision under which the commission, or governing board of the merit system, has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must be a person of good moral character who is not an active member of a police or fire department or agency. If an ordinance was adopted under [IC 36-1-4-14](#) before July 1, 1988, the ordinance must be amended to include this requirement.

(g) This chapter does not prevent a township or other unit that has adopted a merit system under section 3 of this chapter from later amending or deleting any provisions of the merit system contained in this chapter. However, the merit system must include a provision under which the commission has at least one-third (1/3) of its members elected by the active members of the department, as set forth in section 8 of this chapter and a provision that incorporates the requirements of section 6(b) of this chapter. This subsection does not require the legislative body to establish a new merit system when it exercises its power to amend under this subsection.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.189-1988, SEC.7; P.L.310-1989, SEC.1; P.L.3-1990, SEC.128; P.L.180-2002, SEC.1; P.L.1-2003, SEC.100; P.L.13-2010, SEC.3; P.L.207-2023, SEC.8.

IC 36-8-3.5-1.1 District; territory; establishment of system

Sec. 1.1. (a) This section applies only to a district or territory.

(b) The governing board may, by resolution, establish a merit system under this chapter. Before the merit system takes effect, however, the merit system must be approved by a majority of the active members of the department in a referendum as provided in section 4 of this chapter. The governing board shall specify in the adopting resolution which provisions of this chapter are being adopted that are:

- (1) applicable to the district or territory; and
- (2) left to the governing board's discretion;

under this chapter.

(c) This chapter does not prevent a district or territory that has adopted a merit system under this chapter from later amending or deleting any provisions of the merit system contained in this chapter. However, the merit system must include a provision under which the commission has at least one-third (1/3) of its members elected by the active full-time members of the department, as set forth in section 8 of this chapter and a provision that incorporates the requirements of section 6(c) of this chapter. This subsection does not require the governing board under subsection (b) to establish a new merit system when the governing board exercises its power to amend under this subsection.

As added by P.L.207-2023, SEC.9.

IC 36-8-3.5-2 Repealed

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Repealed by P.L.207-2023, SEC.10.

IC 36-8-3.5-3 Establishment; separate systems

Sec. 3. (a) The legislative body of a unit (other than a township) may, by ordinance, establish a merit system under this chapter for the police or fire department of the unit. The legislative body of a township may, by resolution, establish a merit system under this chapter for the township's fire department. Before the merit system takes effect, however, the system must be approved by a majority of the active members of the department in a referendum.

(b) The legislative body shall specify in the adopting ordinance or resolution which of the provisions of this chapter that are left to its discretion are being adopted.

(c) If a merit system is established under this chapter for each department of a unit, each department has a separate merit system.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.180-2002, SEC.2.

IC 36-8-3.5-4Approval or rejection of system by members; notice; voting; subsequent proposals

Sec. 4. (a) Within sixty (60) days after the adoption of an ordinance or resolution establishing a merit system, the safety board or governing board shall give at least three (3) weeks' notice to all active members of the department that a meeting will be held to approve or reject the merit system. The notice shall be given by posting it in prominent places in all stations of the department. The notice must designate the time, place, and purpose of the meeting.

(b) A copy of the ordinance or resolution shall be distributed to each active member of the department at least one (1) week before the date of the meeting.

(c) Only active members of the department may attend the meeting, and at the meeting one (1) of them shall be selected as chair. All voting must be by secret written ballot. The other procedures for holding the meeting may be determined by the safety board or governing board and shall be posted in accordance with subsection (a).

(d) If a majority of the active members of the department vote to approve the merit system, the merit system takes effect on January 1 following the vote. Appointments to the merit commission shall be made by March 1 following that January 1.

(e) If a majority of the active members of the department vote to reject the merit system, another proposal may not be put to a vote within one (1) year after the day the meeting is held.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.180-2002, SEC.3; P.L.127-2017, SEC.227; P.L.207-2023, SEC.11.

IC 36-8-3.5-5Request to establish system; referendum

Sec. 5. (a) A majority of the active members of the department, by referendum under section 4 of this chapter, may request the:

- (1) unit's legislative body; or
- (2) governing board;

to establish a merit system for the department.

(b) The unit's legislative body or the governing board shall vote on the request within sixty (60) days after the request is filed with the following:

- (1) In the case of a unit:
 - (A) the clerk of the legislative body of a county or a municipality; or
 - (B) the executive of a township.
- (2) In the case of a district or territory, the governing board.

(c) If the unit's legislative body votes to grant the request, the legislative body shall adopt an ordinance or resolution establishing a merit system under this chapter. If the governing board votes to grant the request, the governing board shall adopt a resolution establishing a merit system under this chapter. A copy of the ordinance or resolution shall be distributed to each active member of the department, and another referendum under section 4 of this chapter is required before the merit system takes effect.

(d) If the unit's legislative body or a governing board votes to deny the request, the request may not be resubmitted to the legislative body or governing board for one (1) year. Before the request may be resubmitted, another referendum under section 4 of this chapter must be held.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.180-2002, SEC.4; P.L.207-2023, SEC.12.

IC 36-8-3.5-5.5Establishment of system for eligible departments; resolution to reject system; dissolution

Sec. 5.5. (a) This section applies to the following:

- (1) A unit that:
 - (A) has an eligible police department or fire department; and
 - (B) does not have a merit system established under:
 - (i) this chapter;
 - (ii) [IC 36-1-4-14](#); or
 - (iii) a prior statute and retained by ordinance as provided in section 1(c) of this chapter;
- (2) A district or a territory that is an eligible fire department.

- (b) For purposes of this section, a police department is eligible if the police department:
- (1) has at least twelve (12) active full-time, paid members; and
 - (2) provides service to a geographic area that has a resident population of at least twenty thousand (20,000), excluding the resident population of any geographic area that the department provides service to under a mutual aid agreement.
- (c) For purposes of this section, a fire department is eligible if the fire department:
- (1) has at least twelve (12) active full-time, paid members; and
 - (2) provides service to a geographic area that has a resident population of at least twenty thousand (20,000):
 - (A) excluding the resident population of any geographic area that the department provides service to under a mutual aid agreement; and
 - (B) including the resident population of any geographic area within a district or territory.
- (d) Effective January 1, 2025, a merit system is established for each eligible department that does not have a merit system unless, not later than December 31, 2024, the unit, territory, or district:
- (1) establishes a merit system:
 - (A) under section 3 of this chapter, in the case of a unit; or
 - (B) section 1.1 of this chapter, in the case of a district or territory; or
 - (2) adopts a resolution rejecting establishment of a merit system in accordance with subsection (e).
- (e) For each eligible department that does not have a merit system, the unit's legislative body or the governing board of the district or territory may adopt a resolution not later than December 31, 2024, that rejects the establishment of a merit system. The resolution rejecting establishment of a merit system must be adopted by an affirmative vote of at least a majority of the members of each of the following:
- (1) In the case of a:
 - (A) unit, the unit's legislative body; or
 - (B) district or territory, the governing board.
 - (2) The active full-time, paid members of the department.
- The legislative body or governing board shall vote on the resolution first. If the legislative body or governing body votes "yes" on the resolution (thereby rejecting a merit system), the resolution shall be voted on by the active full-time, paid members of the department in accordance with the procedure set forth in section 4 of this chapter. If a majority of the active full-time, paid members of the department vote "yes" on the resolution (thereby rejecting a merit system), a merit system is not established for the department on January 1, 2025.
- (f) If a unit, district, or territory does not reject the establishment of a merit system under subsection (e), a merit system is established on January 1, 2025, without complying with section 3 of this chapter (in the case of a unit), section 1.1 of this chapter (in the case of a district or territory), or any other law. The following apply to the merit system:
- (1) The merit system shall be considered to be established by the ordinance or resolution, whichever is appropriate, that adopts all of the provisions applicable to the establishing unit, district, or territory.
 - (2) Not later than March 1, 2025, a merit commission shall be appointed that establishes or administers policies based on merit for the appointment, promotion, demotion, and dismissal of members of the department as set forth in this chapter.
- (g) Except as provided in subsection (i), after January 1, 2025, a merit system established under this section may be amended or dissolved as follows:
- (1) The merit system may be amended by the:
 - (A) unit's legislative body adopting an ordinance or resolution as provided in section 3 of this chapter; or
 - (B) governing body adopting a resolution under section 1.1 of this chapter;that has the effect of amending or deleting provisions of the merit system that are left to the discretion of the unit, district, or territory under this chapter.
 - (2) A merit system may be dissolved by following the procedure for establishing or rejecting a merit system under section 4 or 5 of this chapter. The dissolution takes effect on January 1 following the vote of at least a majority of the:
 - (A) active full-time paid members of the department to approve the ordinance or resolution dissolving the merit system under section 4 of this chapter; or
 - (B) members of the unit's legislative body or governing board to adopt the ordinance or resolution to dissolve the merit system under section 5 of this chapter, whichever is appropriate.

(h) A unit, district, or territory that rejects the establishment of a merit system under subsection (e) may adopt or attempt to adopt an ordinance or resolution that establishes a merit system for the department:

- (1) under this chapter or [IC 36-1-4-14](#), in the case of a unit; or
- (2) under this chapter, in the case of a district or territory;

after December 31, 2024, and at least one (1) year after the date of the vote rejecting the merit system under subsection (e).

(i) After January 1, 2029, and before January 31, 2029, a unit, district, or territory that establishes a merit system under this section shall vote to either retain or dissolve the merit system. If at least a majority of the:

- (1) members of the legislative body or governing board; or
- (2) active full-time paid members of the department;

vote to dissolve the merit system, the merit system is dissolved.

As added by P.L.207-2023, SEC.13.

IC 36-8-3.5-6 Merit commission; establishment; appointment of members; qualifications; oath

Sec. 6. (a) A merit commission consisting of five (5) commissioners shall be established for:

- (1) each department of a unit;
- (2) a district; or
- (3) a territory;

having a merit system.

(b) The commissioners of a unit are:

- (1) two (2) persons, who must be of different political parties, appointed by the unit's executive;
- (2) one (1) person appointed by the unit's legislative body; and
- (3) two (2) persons, who must be of different political parties, elected by the active members of the department.

Notwithstanding [IC 36-1-8-10](#), political affiliation shall be determined through the voters' registration records of the three (3) most recent primary elections.

(c) The commissioners of a district or territory are:

- (1) the members of the governing board; and
- (2) two (2) persons, who must be of different political parties, elected by the active members of the department.

Notwithstanding [IC 36-1-8-10](#), the political affiliation of the persons appointed under subdivision (2) shall be determined through the voters' registration records of the three (3) most recent primary elections.

(d) This subsection does not apply to a commissioner who is a member of the governing board of a district or territory. A commissioner must have been a legal resident of the unit, district, or territory for three (3) consecutive years immediately preceding the commissioner's term and must be a person of good moral character. The unit's legislative body may, upon the recommendation of the safety board, determine a per diem to be paid to each commissioner for each day of actual service for the commission. The governing board may determine a per diem to be paid to each commissioner appointed under subsection (c)(2) for each day of actual service for the commission. A commissioner must be at least twenty-one (21) years of age. A commissioner may not be an active member of a police or fire department or agency and not more than two (2) of the commissioners may be past members of a police or fire department or agency. In addition, a person may not serve on the commission if the person receives any remuneration as salary from the unit.

(e) Each commissioner shall take an oath of office to conscientiously discharge the commissioner's duties. A signed copy of the oath shall be filed with the safety board of a unit or the governing board.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.185-1988, SEC.4; P.L.207-2023, SEC.14.

IC 36-8-3.5-7 Commissioners; terms; tenure

Sec. 7. (a) This subsection applies only to a unit. The term of a commissioner is four (4) years. However, one (1) of the executive's initial selections and one (1) of the department's initial selections are for terms of two (2) years.

(b) This subsection applies only to a district or territory. A commissioner who is a member of the governing board serves on the commission until the member ceases to be a member of the governing board. The term of a commissioner elected by the department under section 6(c)(2) of this chapter is four (4) years. However, the initial term of one (1) of the commissioners elected by the department is for a term of two (2) years.

(c) A vacancy on the commission shall be filled within thirty (30) days by the appointing or electing authority. The selection is for the remainder of the unexpired term.

(d) A commissioner appointed by the unit's legislative body serves at the pleasure of the appointing or electing authority and may be removed at any time. In the case of a commissioner elected by the department, the safety board or governing board shall call a meeting of the active members of the department under the procedures specified in section 4 of this chapter if a recall petition signed by a majority of the active members is submitted to the board.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.207-2023, SEC.15.

IC 36-8-3.5-8 Elections; meeting; notice

Sec. 8. (a) An election to be made by the active members of the department shall be made at a meeting called specifically for that purpose by the safety board or governing board. The safety board or governing board shall give at least three (3) weeks' notice of the meeting to all active members of the department by posting the notice in prominent locations in stations of the department. The notice shall also be read during shift roll calls. The notice must designate the time, place, and purpose of the meeting.

(b) Only active members of the department may attend the meeting, and at the meeting one (1) of them shall be selected as chair. All voting must be by secret written ballot. The other procedures for holding the meeting may be determined by the safety board or governing board and shall be posted in accordance with subsection (a).

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.127-2017, SEC.228; P.L.207-2023, SEC.16.

IC 36-8-3.5-9 Rules governing commission; selection of officers; records; budget; per diem

Sec. 9. (a) Not later than thirty (30) days after the commission is selected, the commission shall adopt rules to govern the commission, including the time and place of regular monthly meetings and special meetings that are necessary to transact the business of the commission. A majority of the commissioners constitutes a quorum, and a majority vote of all the commissioners is necessary to transact the business of the commission. Each year the commissioners shall select from among the commissioners a president, vice president, and secretary. The commission shall keep a permanent record of its proceedings.

(b) In the case of a unit, the commission shall submit a proposed annual budget to the unit as other budgets of the unit are submitted. The legislative body shall include in its budget an amount sufficient for the necessary expenses of the commission.

(c) The commissioners for a territory or district who are:

- (1) members of the governing board may not receive a per diem for serving on the commission, but may receive compensation for expenses actually incurred in the performance of a commissioner's duties; and
- (2) described in section 6(c)(2) of this chapter may receive a per diem for serving on the commission and compensation for expenses actually incurred in the performance of a commissioner's duties.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.207-2023, SEC.17.

IC 36-8-3.5-10 Rules; adoption; notice and hearing

Sec. 10. (a) Within ninety (90) days after the commission is selected, the commission shall adopt rules governing:

- (1) the selection and appointment of persons to be employed as members of the department, subject to applicable pension statutes;
- (2) promotions and demotions of members of the department; and
- (3) disciplinary action or dismissal of members of the department.

(b) Before the rules required by this chapter are adopted by the commission, the commission must hold a public hearing to consider the adoption of the proposed rules. At least ten (10) days before the public hearing, the commission must have a notice of the hearing published in accordance with [IC 5-3-1](#). The notice must state the time and place of the hearing and give briefly the subject matter of the proposed rules.

(c) At least ten (10) days before the hearing, one (1) copy of the proposed rules must be placed on file as follows:

- (1) In the case of a unit, the office of the:
 - (A) clerk of a county, city, or town; or
 - (B) executive of a township;for inspection by residents of the unit.
- (2) In the case of a district or territory, the office of the:
 - (A) county legislative body of each county in which the district or territory is located;
 - (B) governing body; and
 - (C) clerk of each city or town and the executive of each township that is:
 - (i) located in; and

- (ii) part of the district or territory;
for inspection by residents of the district or territory.
- (d) At least ten (10) days before the hearing, three (3) copies of the proposed rules must be forwarded to the chief of the department and retained on file in the chief's office for inspection at all times by members of the department.
- (e) At the hearing, any interested person of the unit, district, or territory and any member of the department must be afforded an opportunity to present both oral and written evidence on any matter relating to the adoption of the proposed rules. The commission shall give due consideration to this evidence in making the commission's final decision concerning the adoption of the proposed rules.
- [Local Government Recodification Citation: New.]
As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.180-2002, SEC.5; P.L.207-2023, SEC.18.

IC 36-8-3.5-11 Department members; tenure; chief; appointment and qualifications

Sec. 11. (a) The commission may appoint and remove members of the department, except for a member in an upper level policymaking position. The executive of the unit or the governing board shall appoint and may remove a member in an upper level policymaking position.

(b) The chief of a fire department shall be selected from the members of the department, and the chief must have at least five (5) years service in the department before the chief's appointment. These requirements may be waived by a majority vote of the:

- (1) unit's legislative body upon request of the unit's executive; or
- (2) governing board.

However, the chief must still have at least five (5) years service in a full-time, paid fire department or agency.

(c) To be appointed chief or deputy chief of a police department, an applicant must meet the qualifications in [IC 36-8-4-6.5](#).

(d) The removal of a member from an upper level policymaking position is removal from rank only and not from the department. When the member is removed, the member shall be appointed by the commission to the rank in the department that the member held at the time of the member's upper level appointment or to any rank to which the member had been promoted during the member's tenure in the upper level position. If such a rank is not open in either case, the member is entitled to the pay of that rank and shall be promoted to that rank as soon as an opening is available.

[Local Government Recodification Citation: New.]
As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.348-1987, SEC.1; P.L.127-2017, SEC.229; P.L.207-2023, SEC.19.

IC 36-8-3.5-12 Department members; appointment; qualifications; application; general aptitude test; ratings; eligibility list; vacancies; physical agility test; probation

Sec. 12. (a) Subject to [IC 36-8-4.7](#), to be appointed to the department, an applicant must be:

- (1) a citizen of the United States;
- (2) a high school graduate or equivalent; and
- (3) at least twenty-one (21) years of age, but under forty (40) years of age.

However, the age requirements do not apply to a person who has been previously employed as a member of the department.

(b) A person may not be appointed, reappointed, or reinstated if the person has a felony conviction on the person's record.

(c) Applications for appointment or reappointment to the department must be filed with the commission. The applicant must produce satisfactory proof of the date and place of the applicant's birth.

(d) Applicants for appointment or reappointment to the department must pass the general aptitude test required under [IC 36-8-3.2-3](#) or [IC 36-8-3.2-3.5](#). The general aptitude test shall:

- (1) reflect the essential functions of the job;
- (2) be conducted according to procedures adopted by the commission; and
- (3) be administered in a manner that reasonably accommodates the needs of applicants with a disability.

The results of the general aptitude test shall be filed with the commission. If the commission finds that the applicant lacks the proper qualifications, it shall reject the applicant.

(e) The applicants shall then be rated on the selection criteria and testing methods adopted by the commission, which may include mental alertness, character, habits, and reputation. The commission shall adopt rules for grading

the applicants, including the establishment of a passing score. The commission shall place the names of applicants with passing scores on an eligibility list by the order of their scores and shall certify the list to the safety board.

(f) This subsection is subject to [IC 36-8-4.7](#). If an applicant reaches the applicant's fortieth birthday, the applicant's name shall be removed from the eligibility list. Applicants remain on the list for two (2) years from the date of certification. After two (2) years a person may reapply as an applicant.

(g) When a vacancy occurs in the department, the commission, upon a written request of the chief of the department, shall administer the physical agility test under [IC 36-8-3.2-3](#) or [IC 36-8-3.2-3.5](#) to the applicant having the highest score on the eligibility list. If the appointed applicant successfully completes the physical agility test, the applicant shall then be enrolled as a member of the department to fill the vacancy if:

(1) the applicant is still of good character; and

(2) the applicant passes the required examinations identified in [IC 36-8-3.2-6](#) and [IC 36-8-8-19](#).

(h) All appointments are probationary for a period not to exceed one (1) year. If the commission finds, upon the recommendation of the department during the probationary period, that the conduct or capacity of the probationary member is not satisfactory, the commission shall notify the member in writing that the member:

(1) is being reprimanded;

(2) is being suspended; or

(3) will not receive a permanent appointment.

If a member is notified that the member will not receive a permanent appointment, the member's employment immediately ceases. Otherwise, at the expiration of the probationary period the member is considered regularly employed.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.4-1992, SEC.30; P.L.99-2007, SEC.214; P.L.115-2016, SEC.1; P.L.127-2017, SEC.230; P.L.103-2021, SEC.2; P.L.102-2023, SEC.2.

IC 36-8-3.5-13Promotions; rules; requisites; eligibility list

Sec. 13. (a) Rules governing promotions must provide that the following factors be considered in rating a member of the department for a promotion:

(1) The score received by the member on a written competitive examination.

(2) The score received by the member on an oral competitive interview.

(3) The performance record of the member in the department.

(4) The member's length of service.

The commission shall determine the weight to be given to each of the factors. However, neither a member's length of service nor the score received on the oral interview may comprise more than twenty percent (20%) each of the rating.

(b) Promotions to a rank must be from the next lower rank. In addition, the member being promoted must have served at the lower rank for a period determined by the commission.

(c) Only members who are qualified in rank and length of service may be given the competitive examinations and placed on an eligibility list. The eligibility list for a position consists of members who have been placed on the list in order of their cumulative score on all rating factors. The eligibility list shall be maintained for two (2) years from the date of certification, after which time the list shall be retired and a new list established. The retired list shall be kept for five (5) years and then destroyed.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1.

IC 36-8-3.5-14Promotions; competitive examinations; procedures

Sec. 14. (a) Before a written competitive examination may be held to fill a current or expected vacancy in the ranks, the members eligible to take the examination must be notified of the written materials from which the questions will be taken. The commission may employ instructors, purchase materials, and make other expenditures to provide information for applicants for promotion examinations.

(b) The identity of a member taking the written examination shall be withheld from the person or persons grading the examination, and all written examinations are confidential. The commission shall notify each member in writing of the score that the member received on the examination. The score received by a member on the written examination becomes a part of the permanent file of the member, and the member is entitled to access to this file for examination at any time.

(c) The examination papers shall be kept under the commission's supervision. A member who is aggrieved with the score received on the written examination may appeal to the commission for review of the score. The appeal must be filed within ten (10) days after notice of the score has been sent to the member. The member may review the

questions incorrectly answered by the member and challenge the answer considered correct by the examiner. The commission shall either affirm the score or correct the score according to the findings of a review. The examination papers shall be retired after the two (2) year period during which the eligibility list is valid. The retired papers shall be kept for five (5) years and then destroyed.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.127-2017, SEC.231.

IC 36-8-3.5-15Performance ratings; rules; appeal

Sec. 15. (a) The commission shall adopt rules for determining a performance rating. The rules must require that a performance rating be made at least once every six (6) months for each member of the department, including probationary members. The rating shall be made by one (1) or more of the member's superiors, as defined in the commission's rules. Probationary members shall be rated in the same manner as other members of the department. The ratings shall be submitted to the chief of the department and kept on file in the chief's office under the chief's supervision. The chief shall notify each member in writing of the rating that the member received.

(b) A member who is aggrieved with the performance rating given to the member by the member's superior may appeal to the commission for a review of the rating. The appeal must be filed within ten (10) days after notice of the rating has been sent to the member. The commission shall either affirm or correct the rating.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.127-2017, SEC.232.

IC 36-8-3.5-16Promotions; certification of eligible members; probation; procedures

Sec. 16. (a) When a vacancy in rank occurs, the commission shall certify to the chief of the department the three (3) members with the highest scores on the eligibility list for that particular rank. Within six (6) months the commission, upon the recommendation of the chief, shall promote one (1) of those members to fill the vacant position.

(b) All promotions are probationary for a period not to exceed one (1) year. At the end of the period, a probationary member's superior shall review the member's performance and recommend to the commission that:

- (1) the promotion be made permanent; or
- (2) the promotion be revoked.

(c) The commission shall prepare a rating chart for the superior's use in making the report. The commission shall review the report and decide what action should be taken. The probationary member is entitled to appear before the commission and be heard on any matter detrimental to the member in the report of the member's superior. The member is also entitled to be represented by counsel or another representative of the member's choice. If the promotion is finally revoked the member may not be returned to a rank lower than that the member held before the probationary promotion.

(d) Actions by the commission other than making the promotion permanent may be appealed within thirty (30) days to the circuit or superior court of the county, with the unit, district, or territory being named as the sole defendant.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.127-2017, SEC.233; P.L.207-2023, SEC.20.

IC 36-8-3.5-17Disciplinary actions; grounds; hearing; notice; requisites; procedures; appeal

Sec. 17. (a) The commission may take the following disciplinary actions against a regular member of the department:

- (1) Suspension with or without pay.
- (2) Demotion.
- (3) Dismissal.

If a member is suspended under this subsection, the member is entitled to the member's remuneration and allowances for insurance benefits to which the member was entitled before the suspension. In addition, the unit, territory, or district may provide the member's allowances for any other fringe benefits to which the member was entitled before the suspension. The commission shall determine if a member of the department who is suspended in excess of five (5) days shall continue to receive the member's salary during suspension.

(b) A member may be disciplined by the commission if:

- (1) the member is convicted of a crime; or
- (2) the commission finds the member guilty of a breach of discipline, including:
 - (A) neglect of duty;
 - (B) violation of commission rules;
 - (C) neglect or disobedience of orders;

- (D) continuing incapacity;
- (E) absence without leave;
- (F) immoral conduct;
- (G) conduct injurious to the public peace or welfare;
- (H) conduct unbecoming a member; or
- (I) furnishing information to an applicant for appointment or promotion that gives that person an advantage over another applicant.

(c) If the chief of the department, after an investigation within the department, prefers charges against a member of the department for an alleged breach of discipline under subsection (b), including any civilian complaint of an alleged breach of discipline under subsection (b)(2)(F), (b)(2)(G), or (b)(2)(H), a hearing shall be conducted upon the request of the member. If a hearing is requested within five (5) days of the chief preferring charges, the parties may by agreement designate a hearing officer who is qualified by education, training, or experience. If the parties do not agree within this five (5) day period, the commission may hold the hearing or designate a person or board to conduct the hearing, as provided in the commission's rules. The designated person or board must be qualified by education, training, or experience to conduct such a hearing and may not hold an upper level policy making position. The hearing conducted under this subsection shall be held within thirty (30) days after it is requested by the member.

(d) Written notice of the hearing shall be served upon the accused member in person or by a copy left at the member's last and usual place of residence at least fourteen (14) days before the date set for the hearing. The notice must state:

- (1) the time and place of the hearing;
- (2) the charges against the member;
- (3) the specific conduct that comprises the charges;
- (4) that the member is entitled to be represented by counsel or another representative of the member's choice;
- (5) that the member is entitled to call and cross-examine witnesses;
- (6) that the member is entitled to require the production of evidence; and
- (7) that the member is entitled to have subpoenas issued, served, and executed.

(e) The commission may:

- (1) compel the attendance of witnesses by issuing subpoenas;
- (2) examine witnesses under oath; and
- (3) order the production of books, papers, and other evidence by issuing subpoenas.

(f) If a witness refuses to appear at a hearing of the commission after having received written notice requiring the witness's attendance, or refuses to produce evidence that the commission requests by written notice, the commission may file an affidavit in the circuit court, superior court, or probate court of the county setting forth the facts of the refusal. Upon the filing of the affidavit, a summons shall be issued from the circuit court, superior court, or probate court and served by the sheriff of the county requiring the appearance of the witness or the production of information or evidence to the commission.

(g) Disobedience of a summons constitutes contempt of the circuit court, superior court, or probate court from which the summons has been issued. Expenses related to the filing of an affidavit and the issuance and service of a summons shall be charged to the witness against whom the summons has been issued, unless the circuit court, superior court, or probate court finds that the action of the witness was taken in good faith and with reasonable cause. In that case, and in any case in which an affidavit has been filed without the issuance of a summons, the expenses shall be charged to the commission.

(h) A decision to discipline a member may be made only if the preponderance of the evidence presented at the hearing indicates such a course of action.

(i) A member who is aggrieved by the decision of a person or board designated to conduct a disciplinary hearing under subsection (c) may appeal to the commission within ten (10) days of the decision. The commission shall on appeal review the record and either affirm, modify, or reverse the decision on the basis of the record and such oral or written testimony that the commission determines, including additional or newly discovered evidence.

(j) The commission, or the designated person or board, shall keep a record of the proceedings in cases of suspension, demotion, or dismissal. The commission shall give a free copy of the transcript to the member upon request if an appeal is filed.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.58-1989, SEC.4; P.L.265-1993, SEC.3; P.L.84-2016, SEC.180; P.L.207-2023, SEC.21.

IC 36-8-3.5-18Appeal to court; suspension or dismissal; precedence

Sec. 18. (a) A member who is aggrieved by a decision of the commission to suspend the member for a period greater than ten (10) calendar days, demote the member, or dismiss the member may appeal to the circuit or superior court of the county as follows:

- (1) The county in which the unit is located.
- (2) The county in which the provider unit (as defined in [IC 36-8-19-3](#)) of the territory is located.
- (3) If a district is located in:
 - (A) not more than one (1) county, the county in which the district is located; or
 - (B) at least two (2) counties, the primary county (as defined in [IC 36-8-11-2](#)).
- (b) The appeal shall be made according to the Indiana rules of trial procedure with the following exceptions:
 - (1) The verified appeal must be filed within thirty (30) days after the date of the board's decision.
 - (2) The unit, district, or territory shall be named as the sole defendant.
 - (3) The unit, district, or territory is assumed to have denied the allegations without filing a responsive pleading.
 - (4) The plaintiff must file a bond at the time of filing the complaint conditioned on the plaintiff prosecuting the appeal to a final determination and paying the court costs incurred in the appeal.
 - (5) Within thirty (30) days after the service of summons the commission shall file in court a complete transcript of all papers, entries, and other parts of the record relating to the case.
- (c) The appeal takes precedence over other litigation pending before the court.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.127-2017, SEC.234; P.L.207-2023, SEC.22.

IC 36-8-3.5-19Summary disciplinary actions; reprimand or suspension

Sec. 19. (a) In addition to the disciplinary powers of the commission, the chief of the department, may, without a hearing, reprimand or suspend without pay a member, including a police radio or signal alarm operator or a fire alarm operator, for a maximum of five (5) working days. For the purposes of this subsection, eight (8) hours of paid time constitutes one (1) working day.

(b) If a chief reprimands a member in writing or suspends a member, the chief shall, within forty-eight (48) hours, notify the commission in writing of the action and the reasons for the action. A member who is reprimanded in writing or suspended under this section may, within forty-eight (48) hours after receiving notice of the reprimand or suspension, request in writing that the commission review the reprimand or suspension and either uphold or reverse the chief's decision. At its discretion, the commission may hold a hearing during this review. If the board holds a hearing, written notice must be given either by service upon the member in person or by a copy left at the member's last and usual place of residence at least fourteen (14) days before the date set for the hearing. The notice must contain the information listed under section 17(d) of this chapter. If the decision is reversed, the individual who was suspended is entitled to any wages withheld as a result of the suspension.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.265-1993, SEC.4; P.L.127-2017, SEC.235.

IC 36-8-3.5-19.3Suspension or termination of EMS personnel; right to hearing and appeal

Sec. 19.3. (a) This section applies to a department that has at least one (1) certified employee, without regard to whether:

- (1) the employee is an appointed police officer or firefighter; or
- (2) the department has a merit system to which this chapter does not otherwise apply as provided under section 1 of this chapter.

(b) As used in this section, "certified employee" means an individual who, as a condition of employment, holds a valid certification issued under [IC 16-31-3](#) by the Indiana emergency medical services commission established by [IC 16-31-2-1](#).

(c) As used in this section, "medical director" means a physician with an unlimited license to practice medicine in Indiana and who performs the duties and responsibilities described in 836 IAC 2-2-1.

(d) If a medical director takes any of the following actions against a certified employee, the medical director shall provide to the certified employee and to the chief of the certified employee's department a written explanation of the reasons for the action taken by the medical director:

- (1) The medical director refuses or fails to supervise or otherwise provide medical control and direction to the certified employee.
- (2) The medical director refuses or fails to attest to the competency of the certified employee to perform emergency medical services.

(3) The medical director suspends the certified employee from performing emergency medical services.

(e) Before a department takes any employment related action as the result of a medical director's action described in subsection (d) against a certified employee, the certified employee is entitled to a hearing and appeal concerning the medical director's action as provided in sections 17 and 18 of this chapter.

(f) If the medical director's action that is the subject of an appeal under subsection (e) is based on a health care decision made by the certified employee in performing emergency medical services, the commission conducting the hearing shall consult with an independent medical expert to determine whether the certified employee followed the applicable emergency medical services protocol in making the health care decision. The independent medical expert:

(1) must be a physician trained in emergency medical services; and

(2) may not be affiliated with the same hospital as the medical director.

As added by P.L.13-2010, SEC.4.

IC 36-8-3.5-20Retirement age

Sec. 20. A member of the department shall retire from the department when the member reaches the member's seventieth birthday. However, a member of the department who is seventy (70) years of age or older at the time the ordinance or resolution establishing the merit system takes effect may serve until the end of the calendar year.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.38-1986, SEC.2; P.L.180-2002, SEC.6.

IC 36-8-3.5-21Temporary leave of absence; seniority; reinstatement

Sec. 21. (a) If it is necessary for the safety board or governing board to reduce the number of members of the department, the reduction shall be made by granting a temporary leave of absence, without pay or financial obligation to the unit, territory, or district, to the appropriate number of members. The last member appointed shall be put on leave first, with other members also put on leave in reverse hiring order, until the desired level is achieved.

(b) If the department is increased in number again, the members of the department who have been granted leaves of absence under this section shall be reinstated before an applicant on the eligibility list is appointed to the department. The reinstatements begin with the last member granted a leave.

(c) A member on leave of absence shall keep the commission advised of the member's current address. A member shall be informed of the member's reinstatement by written notice. Within ten (10) calendar days after a member receives notice of reinstatement, the member must advise the commission that the member accepts reinstatement and will be able to commence employment on the date specified in the notice. All reinstatement rights granted to a member terminate upon the member's failure to accept reinstatement within that period.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.127-2017, SEC.236; P.L.207-2023, SEC.23.

IC 36-8-3.5-22Rules; printing; copies to department members; effective date

Sec. 22. The department shall print all rules of the commission and furnish a copy to each member of the department. Amendments to the rules take effect thirty (30) days after their adoption if copies have been furnished to all members of the department within that period. Otherwise, they do not take effect until copies are furnished to all members of the department.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1.

IC 36-8-3.5-23Offense; furnishing information to applicants

Sec. 23. A commissioner who knowingly furnishes information to an applicant for original appointment or to a member eligible for promotion that gives that person an advantage over another person commits a Level 6 felony.

[Local Government Recodification Citation: New.]

As added by Acts 1981, P.L.316, SEC.1. Amended by P.L.158-2013, SEC.679.

Signatures of Adoption:

Danny F. Brock, Jr.
Fire Chief

Date

Anthony Cranfill
IAFF Local 4406
Avon District VP

Date

Merit Commission Members

John McDavid
President – Trustee Appointment

Date

Tom Downard
Member – Trustee Appointment

Date

Lee Dorsey
Secretary – L4406 Appointment

Date

Eva Yackey
Member – L4406 Appointment

Date

Joe Pritchett
Member – Township Board Appointment

Date