

EXHIBIT A

TOWN OF SANDWICH POLICE DEPARTMENT PROMOTIONAL PROCESS

Section 1. OBJECTIVE and GOAL

It is the objective of the Town of Sandwich and the Sandwich Superior Officers Union, MCOP Local 368, AFL-CIO to see that the most qualified candidates are promoted from within the ranks of the Sandwich Police Department, thereby furthering the Department's mission of excellence and rewarding the skills and efforts of those most qualified.

It is the goal of the parties to ensure a promotional process that selects candidates based on merit. It is therefore imperative that the process be conducted with the utmost integrity.

Section 2. ELIGIBILITY

- A. SERGEANT: Any officer with at least four (4) years of service as a Patrol Officer in the Sandwich Police Department after the successful completion of the one (1) year probationary period.
- B. LIEUTENANT: Any officer with at least three (3) years of service as a Sergeant in the Sandwich Police Department.
- C. Each promotion shall be conducted internally provided at least three (3) eligible individuals apply, the Town has the sole authority to determine if the promotional process can proceed internally or if the promotional process will be opened to also include candidates from outside of the Sandwich Police Department. The decision to proceed internally with less than three (3) eligible applicants or to open the promotional process to external candidates shall not be grievable or arbitrable under the Agreement.

Section 3. PROCEDURES

A. TESTING/EXAMINATION PROCESS

All candidates shall undergo a testing/examination process which shall be developed by a reputable testing organization with recognized experience

in developing, implementing, and scoring promotional examinations for police officers in Massachusetts. Following consultation with the Chief of Police and Union President, a qualified testing organization will be selected by the Town Manager. Tests shall be designed to identify the most qualified candidates for the tested positions. The form of the examinations shall be determined by the testing organization, in conjunction with the Town Manager, after consultation with the Chief of Police, and input from the Union. The examination shall include written questions tailored to the position being filled and in-person interviews. In addition, the examination may also include assessment center exercises, or any other means which fairly and objectively assess the skills and abilities of candidates for the promotional position. The cost to prepare and administer the examination will be the financial responsibility of the Town.

Whatever form of examination is used, the testing organization must certify that it is a valid measure of the skills and abilities to perform the duties of the promotional position.

B. NOTICE

Officers shall be given at least one hundred twenty (120) days notice of a scheduled examination. Such notice shall include procedures and dates for applications.

C. RESULTS OF TEST

1. Once testing has concluded, the testing organization shall rank order the results and report them to the Town Manager and the Chief of Police. The Chief of Police shall, in turn, notify each applicant of his/her score. The testing organization shall, where appropriate, indicate what constituted a passing score and separate scores by those who passed and those who failed. Individual scores shall be reported by the testing organization in a manner consistent with its usual practices.
2. Any candidate who believes his/her score to be inaccurate shall have seven (7) days from receipt of his/her scores to file an appeal with the testing organization. The testing organization shall expeditiously review any such appeals and report its conclusions to the Town Manager.

Section 4. SELECTION

- A. For each promotion position, the names of the three (3) candidates with the highest passing scores shall be presented to the Town Manager for consideration for appointment. In the event that fewer than three candidates have passed the test, the name(s) of all who passed shall be submitted to the Town Manager.
- B. The Town Manager shall review the personnel file and job performance history of each internal candidate. For any external candidate, a background and qualification check similar to that utilized for original appointments/new hires, shall be completed and submitted to the Town Manager for review.
- C. An interview of the candidates shall be conducted at the direction of the Town Manager. The same format will be followed for all candidates selected for an interview.
- D. After consideration of the examination results, interview, personnel file/performance review, and any recommendation received at the direction of the Town Manager, the Town Manager shall make an appointment decision which may include any of the following: (1) the selection of one of the candidates before the Town Manager; (2) the decision not to fill the position; or (3) the rejection of all candidates and a decision to repeat the selection process with new/external candidates.
- E. If the Town Manager selects a candidate who does not have the highest score on the exam, the Town Manager shall give reasons for doing so to those candidates with higher scores who were not selected.
- F. Any candidate not selected for a position filled by a candidate with a lower test score may file a grievance, under the process set forth herein, over his/her non-selection. In the event there is more than one (1) candidate with a higher exam score than the successful candidate, only the unsuccessful candidate with the highest exam score shall be allowed to proceed with a grievance. Such grievance shall be considered under an “arbitrary and capricious” standard. For such a grievance to be upheld, the grievant must show that:
 - 1. The appointment was infected by bias, favoritism, or other non-meritorious considerations; and/or

2. The stated reasons for selection/non-selection by the Town Manager are so objectively unreasonable as to make the promotional decision arbitrary and capricious.

The grievance process is not available in the filling of any supervisory position higher than the rank of Lieutenant.

- G. In the event there is a grievance involving a promotion selection, it shall be processed as follows:
 1. The grievance shall be filed in writing with the Town Manager within ten (10) work days of the date of the Town Manager's appointment decision.
 2. The Town Manager shall meet with the grievant and his/her representative, if any, within ten (10) work days of his/her receipt of the grievance. The Town Manager will issue a written decision on the grievance within ten (10) work days of the meeting.
 3. If the matter is not resolved by the Town Manager, then the Union may submit the matter to arbitration within ten (10) work days after receipt of the written answer of the Town Manager.
 4. The arbitrator shall be chosen through the American Arbitration Association or any other entity as may be mutually agreed by both the Town Manager and the Union, but in no event shall the matter be appealed to the Civil Service Commission. If the parties choose to use the American Arbitration Association, the matter shall be conducted pursuant to the AAA Voluntary Labor Arbitration Rules. The cost of arbitration shall be shared equally by the parties.
- H. The arbitrator shall have no power to alter, amend, modify, add to or subtract from this Policy or to make any decision which abridges or modifies the management rights of the Town. The decision of the Arbitrator shall be binding on all parties.
- I. An arbitrator upholding a promotional grievance shall have authority, based on all relevant circumstances, to order that the grievant to be placed at the top of the promotional list upon which the grievance was filed until the next vacancy in the promotional position, however, under

no circumstances may an arbitrator order that the Town be required to appoint any particular individual.

- J. Failure by a candidate to initiate and process a grievance in accordance With the time limits established herein shall be deemed waived.

Section 5. PROMOTIONAL LISTS/FREQUENCY OF EXAMINATION

Once assembled, promotional lists shall remain in effect for two (2) years. All promotions shall be made from a current promotional list.

Section 6. TRANSITION FROM CIVIL SERVICE

Any Civil Service promotional list that is current and valid as of the effective date of the removal of the ranks of Sandwich Police Sergeant and above from Civil Service will remain in effect until its expiration date, even if that date goes beyond the Town's removal from Civil Service. Upon the expiration of such list, the promotional process as set forth above shall be utilized by the Town.

Section 7. PROMOTIONAL POLICY AMENDMENT

Any provision of the promotional process specified in Sections 1 through 6 above may be amended by the Town and the Union by mutual agreement or in subsequent negotiations of the collective bargaining agreement.

Section 8. FAILURE TO REMOVE FROM CIVIL SERVICE

The above Policy is intended to take effect upon the successful removal of the ranks of Sandwich Police Sergeant and above from Civil Service. In the event that these promotional positions are not removed from Civil Service but remain covered by Civil Service statutes, rules and regulation, then this Policy shall not become effective.