

**TOWN OF EAST HARTFORD PERSONNEL APPEALS BOARD  
SPECIAL MEETING MINUTES**

Thursday, November 18, 2021  
Virtual Meeting via Microsoft Teams

**Present:**

**Personnel Appeals Board Members**

Shaun Jones, Chair  
Godfred T. Ansah  
Richard Bates

**Appellant**

Ofc. Jason Guerrero

**Union Representation**

Sgt. Rich Dube, EHPOA President

**Other**

Michael Daniels, Clerk

**CALL TO ORDER**

Chair Shaun Jones called the meeting to order at 5:36 PM. Mr. Daniels called the roll.

Members indicated that they received the agenda via email and did not require one to be sent in the mail.

**Mr. Bates moved to waive receiving the agenda via US Mail.**

**Mr. Ansah seconded. All voted in favor, none voted opposed.**

Chair Jones said he had trouble locating some of the meeting recordings. Mr. Daniels said he would email the link to the meeting recordings page to the Board members.

Chair Jones noted Rosamond White has resigned from her role as an alternate and said the Board appreciates her service. He also noted the Town now has a new Corporation Counsel and an interim Human Resources Director.

Chair Jones said he is unsure if a 90-day limit on making a decision is in effect for the current appeals because he is unsure which version of the Personnel Rules applies.

Chair Jones said he had prepared potential questions for the Corporation Counsel and sent them to Mr. Daniels to distribute to the parties attending the meeting via email.

Chair Jones moved to amend the minutes of the November 8, 2021, meeting to indicate he had requested the links to the recordings of the meetings where the Board made decisions on the appeals and a few previous meetings.

Mr. Bates said he had issues with how some of his comments were recorded in the November 8, 2021, meeting minutes. He said he wished to postpone approval of those minutes until he can listen to the recordings and draft an amendment to the minutes to ensure his comments can be recorded accurately.

**Bates moved to postpone the approval of the November 8, 2021, meeting minutes.**

**Mr. Ansah seconded. All voted in favor, none voted opposed.**

Ofc. Guerrero asked the Board to proceed with hearing his appeal despite the memo from the Corporation Counsel to the Human Resources Director stating the Board does not have authority in the appeal. He said he believes the Board has the authority to hear his appeal based on the Personnel Rules and Merit System and that the Board can render a final and binding decision.

Mr. Bates asked if Ofc. Guerrero had approached the interim Human Resources Director or the new Corporation Counsel. Ofc. Guerrero said he had not but he had asked the new EHPOA President Rich Dube if it would be possible to approach the new interim H.R. Director for her opinion of the situation. Chair Jones asked Sgt. Dube if he wanted to comment. Sgt. Dube said he could reach out to H.R. if the Board gives its blessing. Chair Jones asked if Ofc. Guerrero's Step 2 Grievance was still in progress. Ofc. Guerrero said they have moved on to Step 3 to go to the state labor board. Chair Jones said if the Corporation Counsel gives an opinion addressed to the Board, the Board may have to follow it, but Corporation Counsel has not given an official opinion to the Board so far, only to the H.R. Director.

Chair Jones said he drafted eleven questions to potentially ask the Corporation Counsel.

Mr. Bates asked if asking any of these questions might result in the Board being prevented from continuing with the appeal. Chair Jones described each of his questions. He said these questions are to clarify the actions of the Board in their decision on the exam.

Chair Jones said he believed the score needed to pass the written exam needed to be in the announcement of the exam, and he believes the score being in the contract is not enough.

Mr. Bates said he believes the Board could not have determined the ranking of the candidates on the eligibility list without violating the protective order, and he said the Board should consider asking whether it should have violated the court order to rank the candidates on the list.

Chair Jones said none of the Board's actions should have allowed H.R. to consider the individuals added to the eligibility list as still having failed the exam.

Mr. Bates asked Ofc. Guerrero if points were added beyond his written score when he was placed on the eligibility list. Ofc. Guerrero said he was never given a score despite asking for a final weighted score several times via email. Mr. Bates asked for a formal request through the Board to see the eligibility list. Chair Jones said the Board would make an official request through the H.R. Director's Office to see the eligibility list prior to the next Board meeting. Mr. Bates asked additionally for an explanation at how H.R. arrived at the rankings.

Ofc. Guerrero said former EHPOA President Iacono had provided him with the list of names in order but not their scores. Chair Jones asked if scores are usually included on the eligibility list. Sgt. Dube said scores are not usually included. Mr. Bates said he does not need to know specific scores, but he wants to know if points for written, oral, and seniority were included for each candidate. Mr. Bates said if Ofc. Guerrero were placed at the end of the list without including any points, that would violate the contract and the Merit System.

Mr. Bates said the Board should continue hearing the appeal based on having accepted it and not having received an opinion addressed to the Board saying it does not have jurisdiction in the appeal. Chair Jones said the requests for information would be preliminary before the Board opens an appeal hearing.

Mr. Ansah said the Board is trying to review the entire test process for the seven individuals already on the eligibility list and he does not know if they can do this. Chair Jones said the Board is not doing this. Mr. Ansah said he wants to hear the Corporation Counsel's response to the questions drafted by Chair Jones. Mr. Ansah said his understanding is that when the Board told the Personnel Director to put the names on the list, they never required anything else to be taken into consideration. Mr. Bates said he did. Mr. Ansah said he thought the three people would be added after the seven individuals already on the list.

Chair Jones said he thought the Board wanted to follow the merit rules and procedures and did not want to substitute the judgement of the panelists in terms of scoring. He said they deemed that they did not know how the scores were arrived at and said it would be fair and equitable to put the three additional names on the list and continued by saying that the rules and merit system should be followed, and that means seniority would be included. He said the Board putting the individuals on the eligibility list means they are deemed to have passed. He said he does not believe the original seven individuals would be impacted. He said they want to ask the H.R. Director to explain if written, oral, and seniority points were included in placing Ofc. Guerrero's name on the list and for the others. Mr. Bates said he never agreed to simply place the individuals' names at the end of the list. Mr. Ansah disagreed and said this is what the Board did. Chair Jones said the Board's first motion in deciding Ofc. Guerrero's original appeal would have been stronger and more clear, but they revised it after being advised that it wasn't

prudent or appropriate. He said he thinks the Board's questions being answered may resolve the entire situation.

Chair Jones said that Mr. Bates had always called for all the rules to be followed. Chair Jones said Mr. Ansah also had called for the Procedural Manual to be developed to ensure the rules are followed. Mr. Ansah said the Procedural Manual is prospective and would not impact the current eligibility list.

Mr. Bates reiterated he wants to know who is on the eligibility list and what was used in calculating the score for each name. Chair Jones said the Board could ask if all candidates were treated the same and if all were given seniority. Mr. Bates said he would also want to know if all received points for the oral exam. Chair Jones said in that case, it could be asked if everyone received points for seniority and for the oral exam in the eligibility list.

Mr. Ansah said there is confusion about how the three names the Board added to the eligibility list should be added. Mr. Ansah said they never directed the use of scores and left everything to the Personnel Director. Chair Jones said this is why the Board will ask questions to the Corporation Counsel for clarification. Mr. Bates and Mr. Ansah disagreed about if there was direction given to the Human Resources Director as to if points should be included.

Mr. Ansah asked if the other two people added to the list have any question about where their names are on the list. Chair Jones said the two other did not appeal.

Chair Jones said the merit rules and procedures need to be followed. Mr. Ansah asked if once the Corporation Counsel responds to the questions if those answers are final. Chair Jones said if the Corporation Counsel considers those opinions to be binding, they will be official. Mr. Ansah said he wants the responses from Corporation Counsel. Ofc. Guerrero asked if the Board will accept the opinions of Corporation Counsel even if they believe them to be incorrect. Chair Jones said the Corporation Counsel can only provide an official opinion if the Board asks for one. He said the prior opinions were addressed to the H.R. Director, not the Board, and the Board believed some things in the memo to be incorrect. He said the Board members have since clarified what they had done during the meetings where the decisions were made on the appeal. He said the Board wants to ensure the names added to the eligibility list are considered as passing and are awarded points consistent with how all other passing candidates are awarded points. Chair Jones said his questions deal with what is alleged to have been said by the Board. He said he welcomed additional questions from the other Board members.

Chair Jones and Mr. Ansah discussed whether the question of what points were included for the candidates should be posed to the Corporation Counsel or to the Human Resources Department. Chair Jones said Mr. Bates would ask if Ofc. Guerrero received seniority and oral exam points to

the Corporation Counsel because the H.R. Director is new. Chair Jones said asking about the 90-day limit for the appeal could potentially be added to the questions in addition to Mr. Bates's question.

Chair Jones suggested a motion to allow members of the Board to send additional questions to the Corporation Counsel individually. Mr. Ansah said he has a question about if the Board can revisit the seven individuals originally on the list. Chair Jones said he did not think Mr. Ansah should ask about this because the Board is not doing this. He said if Mr. Ansah wishes to ask this question, he should wait until the Assistant Corporation Counsel is present at a meeting. Chair Jones said it might be better for the Board members to not send separate questions individually to the Corporation Counsel.

Mr. Bates moved to send the list of eleven questions from Chair Jones and the one question from Mr. Bates to the Corporation Counsel.

Mr. Ansah asked to add an additional question to the list. Chair Jones said Mr. Ansah's question was already in the minutes. Mr. Daniels said he was unsure what Mr. Ansah's question was and wanted it to be stated clearly for the record. Chair Jones said Mr. Ansah's question regarding the seven others would be reflected in the minutes but did not want to put it as a formal question. Mr. Daniels asked for clarity of what Mr. Ansah was asking. Mr. Ansah said he would like to add a question in writing and send it to Chair Jones. Chair Jones said he had previously proposed letting Mr. Ansah send a question directly to the Corporation Counsel and did not want to have communication between members outside of the meeting to ensure rules of transparency are followed. Chair Jones said after hearing what Mr. Ansah wanted to ask, he changed his mind about allowing members to send questions individually to the Corporation Counsel. Mr. Ansah said he had a problem with not being able to add a question to the list of questions. Chair Jones said he would allow Mr. Ansah to add a question to the list.

Mr. Ansah said the Board should have been clearer in previous motions and did not want the process to drag on. Mr. Ansah said he wanted to know if the Corporation Counsel's answers would be final. Chair Jones said it depends on the specific questions and answers.

Chair Jones gave Mr. Ansah the opportunity to add his question and tried to explain what he thought Mr. Ansah was asking. After some discussion of the phrasing of the question, Mr. Ansah stated his question for the Corporation Counsel as follows:

**In investigating all the questions that have come up, if the finding is that it will affect the seven individuals who have been placed on the list, where do we go from there?**

Mr. Daniels said he would include Mr. Ansah's wording of the question on the list of questions for the motion.

**Mr. Bates moved to send the twelve questions from Chair Jones, one question from Mr. Bates, and one question from Mr. Ansah (see Attachment A – Chair Jones only provided eleven questions) to Corporation Counsel, seeking responses, not official opinions.**

**Mr. Ansah seconded. All voted in favor, none voted opposed.**

The Board members discussed whether to ask the Corporation Counsel to clarify which version of the Personnel Rules are in effect for the current appeals and if a 90-day limit applies.

**Mr. Ansah moved to ask the Corporation Counsel, in handling the appeal presently before us, which version of the Town of East Hartford Personnel Rules and Merit System applies: the version that was in effect when the appeal started, because there was some discussion that the eligibility list is not new, it goes back in time to that timeframe, or does the Town of East Hartford Personnel Rules and Merit System of September of 2020 apply, where the language in that adds a timeframe that you have to make a decision by?**

**Mr. Bates seconded. All voted in favor, none voted opposed.**

The members set November 29<sup>th</sup>, 2021, at 5:30 PM for the next meeting. Mr. Ansah requested the Corporation Counsel respond to the questions prior to that meeting.

**Mr. Bates moved to adjourn.**

**Mr. Ansah seconded. All voted in favor, none voted opposed.**

**Meeting adjourned at 7:42 PM**

## Attachment A

### Questions Posed to the Corporation Counsel in the Motion by Mr. Bates, seconded by Mr. Ansah, and passed unanimously by the Personnel Appeals Board:

#### Eleven Questions by Chair Jones:

(Note: the motion incorrectly stated Chair Jones submitted twelve questions)

- I. Does the Personnel Appeals Board have the Authority to direct the Human Resources Director, when establishing an Eligibility List pursuant to the Town of East Hartford 's Personnel Rules and Merit System's Section 55.1[Promotional Procedure –Public Safety Divisions {Police & Fire}] -55.8, to exclude the calculation and conferring of the “computing of a candidate's seniority for each examination, (in which) all service shall be included which he/she has had in each classification that is eligible to compete in such examination?” [Section 55.3]
- II. Does the Personnel Appeals Board have the Authority to direct the Human Resources Director, when establishing an Eligibility List pursuant to the Town of East Hartford 's Personnel Rules and Merit System's Section 55.1[Promotional Procedure –Public Safety Divisions {Police & Fire}] -55.8, to include the calculation and conferring of the “computing of a candidate's seniority for each examination, (in which) all service shall be included which he/she has had in each classification that is eligible to compete in such examination?” [Section 55.3]
- III. Does the Personnel Appeals Board have the Authority to direct the Human Resources Director, when establishing an Eligibility List pursuant to the Town of East Hartford 's Personnel Rules and Merit System's Section 55.1[Promotional Procedure –Public Safety Divisions {Police & Fire}] -55.8, to Score an exam inconsistent or in conflict with Section 55.1 through 55.8 and in particular not “as determined by the Human Resources Director, (utilizing) the passing grade or minimum rating which a candidate must achieve in such examination in order to be placed on the eligibility list of the classification for which such examination is being conducted?” [Section 55.3]
- IV. Does the Personnel Appeals Board have the Authority to direct the Human Resources Director, when establishing an Eligibility List pursuant to the Town of East Hartford 's Personnel Rules and Merit System's Section 55.1[Promotional Procedure –Public Safety Divisions {Police & Fire}] -55.8, to Score an exam inconsistent or in conflict with Section 55.1 through 55.8 and in particular when the Written Promotional Exam Notice as published pursuant to the Town of East Hartford 's Personnel Rules and Merit System's Section 55.1[Promotional Procedure –Public Safety Divisions {Police & Fire}] -55.8, had described “the place, date and time of such examination and the qualification which the candidates must have and the requirements which they must meet in order to qualify to compete in such examination and as determined by the Human Resources Director, the passing grade or minimum rating which a candidate must achieve in such examination in order to be placed on the eligibility list of the classification for which

such examination is being conducted,” and such passing grade was not in fact published within said ‘Promotional Examination For The Purpose Of Establishing An Eligibility List For Police Sergeant’ announcement and was retained solely in the mind of the Human Resources Director employed at the time of the posting of such announcement? [Section 55.3]

- V. Does the Personnel Appeals Board have the Authority to direct the Human Resources Director, when establishing an Eligibility List pursuant to the Town of East Hartford ‘s Personnel Rules and Merit System’s Section 55.1[Promotional Procedure –Public Safety Divisions {Police & Fire}] -55.8, to, after conducting an appeal, receiving testimony, receiving evidence and rendering a decision, place promotional exam candidates purported to have failed the oral exam on the eligibility list.
- VI. Does the Personnel Appeals Board having the Authority in directing the Human Resources Director, when establishing an Eligibility List pursuant to the Town of East Hartford ‘s Personnel Rules and Merit System’s Section 55.1[Promotional Procedure – Public Safety Divisions {Police & Fire}] -55.8, to, after conducting an appeal, receiving testimony, receiving evidence and, rendering a decision, place promotional exam candidates purported to have failed the oral exam on the eligibility list with the ability to score the exam equally as such exam was established and published?
- VII. Does the Personnel Appeals Board having the Authority to score the exam equally as such exam was established and published, when such promotional exam was established pursuant to the Town of East Hartford ‘s Personnel Rules and Merit System’s Section 55.1[Promotional Procedure –Public Safety Divisions {Police & Fire}] -55.8, and after conducting an appeal, receiving testimony, receiving evidence and, rendering a decision, actually score the exam as the Promotional Examination For The Purpose Of Establishing An Eligibility List For Police Sergeant’ Announcement so stated, “The date, time and location of the Oral Panel Examination will be given to those applicants who pass the written examination?” [Note: No “passing grade or minimum rating which a candidate must achieve in such examination in order to be placed on the eligibility list of the classification for which such examination is being conducted,” was placed within the Promotional Examination For The Purpose Of Establishing An Eligibility List For Police Sergeant’ Announcement]
- VIII. Thus, would it not be equal scoring for {assuming Corporation Counsel’s Interpretation of Minutes correct solely for this question presented and in no way such question presented is meant nor intended to concur with such interpretation of the Personnel Appeal Board’s Minutes} for the Personnel Appeals Board to direct the Human Resources Director to place the three purportedly failed examination candidates on the eligibility list with those ‘passing’ candidates when no posting of what score was necessary for a candidate to pass this Promotional Examination For The Purpose Of Establishing An Eligibility List For Police Sergeant’ was ever “established” or “included” in the Announcement?



- IX. As the Announcement ,circa February 2019, for the **Promotional Examination For The Purpose Of Establishing An Eligibility List For Police Sergeant** did not provide “the weighted average of the earned ratings on all phases of the test, according to weights for each phase established by the Human Resources Director, in advance of the giving of the test and **published as part of the announcement of the test**,” then so too did the Personnel Appeals Board equally direct the Human Resources Director to add the purportedly failed promotional examination candidates to be placed on the eligibility list and chose not to score said exam when the actual scoring of the exam had no parameters defined in the announcement capable of determining “The final earned rating of each applicant competing in any promotional test by using the posted passing or minimum scores? [Section 55.3] Ultimately, any scoring done by those charged with scoring did not score based upon a valid announcement as the passing score remained silent contained within the mind of the Human Resources Director and not shared nor published as required.
- X. Therefore, did not the Personnel Appeals Board properly direct the Human Resources Director to include the purportedly three failed promotional examination candidates onto the eligibility list and in so doing without any published minimum score or published passing score then all once placed upon the eligibility list are deemed to have passed the exam or met the minimum standard and therefore all are entitled to their Seniority to be included in determining the ‘final earned rating’?
- XI. If the Announcement ,circa February 2019, for the **Promotional Examination For The Purpose Of Establishing An Eligibility List For Police Sergeant** is silent as to ‘Seniority’ then would it be proper to include ‘Seniority’ for some and exclude it for others in the ‘final earned rating’? In other words, if ‘Seniority’ is not mentioned in the Announcement ,circa February 2019, for the **Promotional Examination For The Purpose Of Establishing An Eligibility List For Police Sergeant** then in the fair and equitable administration of the exam just concluded would not all promotional examination candidates not be eligible for ‘Seniority’ to be added to the ‘final earned rating’?

**One question by Mr. Bates:**

- XII. Who is on the eligibility list, and for each individual on the eligibility list, did Human Resources use points for the written exam, oral exam, and seniority in determining the order of the names on the list?

**One question by Mr. Ansah:**

- XIII. In investigating all the questions that have come up, if the finding is that it will affect the seven individuals who have been placed on the list, where do we go from there?