

MEMORANDUM OF AGREEMENT

The Town of Avon (hereinafter called "the Employer") and the Avon Police Relief Association, IBPO Local 383 (hereinafter called "the Union") hereby agree, subject to ratification by their membership, as follows:

The Parties agree that the current collective bargaining agreement for the term beginning July 1, 2022 through June 30, 2025, shall be amended to include the following provisions, each as a new Article, as if fully set forth therein effective JULY 1, 2023, following ratification by the Union and the Board of Selectmen.

The following provisions shall be incorporated into the CBA as new Articles.

1. **Seniority.**

a. For employees appointed before the removal of the Department from Civil Service, the Civil Service definition of seniority shall continue to apply for purposes of layoffs, demotions, and all other contractual purposes.

b. For employees appointed after July 1, 2023, seniority shall be based on the employee's date of appointment in the Department.

2. **Layoff and Recall.**

a. Employees appointed prior July 1, 2023 shall maintain all rights regarding layoffs, recall, inclusion on the re-employment list, and lateral transfers, and the procedures under M.G.L. c. 31 governing such matters and any appeal rights shall continue to apply.

b. For employees appointed after July 1, 2023, the term "layoff means a reduction in the number of employees due to a lack of work, lack of funds or abolition of position. In the event of a layoff, the least senior employee or employees shall be laid off first. In any such case a five (5) days' advance notice of the contemplated layoff shall be given to the employee in writing; a copy of such notice shall also be given to the Union. Student

officers shall be laid off first, followed by probationary employees.

A laid-off employee shall have recall rights for a maximum period of five (5) years. Recall shall be in order of seniority with the employee with the highest level of seniority having first right of recall. Notice of recall shall be via certified mail to the employee's last known address. A recalled employee shall notify the Chief of Police within fourteen (14) calendar days of mailing of the recall notice of his or her intention to return to the Police Department. Any person refusing or failing to exercise such recall opportunity within such fourteen (14) day period shall be deemed to have waived his or her right of recall permanently and absolutely. Employees must be available to work within twenty-one (21) calendar days of receiving notice in order to be eligible for recall. This requirement may be waived with the agreement of the Chief of Police. Prior to returning to work a recalled employee may be required to undergo a physical examination, physical abilities test or such other examination or investigation as the Chief of Police deems necessary and appropriate. If, based on the results of such examination or investigation, the Chief of Police rescinds the offer of recall he shall provide the employee with a written statement of his reasons for the rescission. This rescission may be subject to the grievance and arbitration provisions of the contract.

Laid off employees will be responsible for maintaining any required licenses or certifications, provided that laid off employees are allowed to attend department training sessions, if available, at no cost to the employee or the Town. Laid off employees will be allowed to attend courses which involve a cost provided they pay their portion of the costs. Laid off employees who attend such Town-sponsored training sessions and/or courses, shall as a condition of attendance, sign a Release of All Claims on a form provided by the

Town indicating that they are participating on a voluntary basis and not as employees of the Town and, except in instances involving gross negligence on the part of the Town, they accept all risks associated with participation in the program.

3. Discipline.

a. Employees appointed prior to July 1, 2023 shall retain their right to appeal discipline imposed under M.G.L. c. 31, § 41 to the Civil Service Commission.

b. After July 1, 2023, the Town and the Union agree that the "just cause" standard under M.G.L. c. 31, § 41 and the procedures applicable under that section, as interpreted by the Civil Service Commission and the Commonwealth's appellate courts, shall continue in effect for employees who have completed a probationary period of one year performing the full duties of a sworn police officer. After the appointing authority makes a decision on a disciplinary action under § 41 (whether it is his/her action, or a decision on appeal of a departmental suspension), the Union, but not an individual employee, will have thirty (30) days to invoke arbitration by notifying the Town Administrator in writing and specifying in said notice the basis of the appeal. Within ten (10) days after receipt of said notice, the Union shall file a Demand for Arbitration with the American Arbitration Association, and the parties shall split the cost of the filing and arbitrator's fees. The Arbitrator shall apply the same "just cause" standard set forth in M.G.L. c. 31, § 41 and remedial provisions under M.G.L. c. 31, § 44, consistent with appellate cases applying that standard and those provisions. Judicial review of arbitrator's awards shall be pursuant to M.G.L. c. 31, § 44.

PROMOTIONS

This policy applies to promotions *for sworn personnel only*.

Our Department's commitment to developing employees to take on increasing levels of authority, responsibility and leadership is embodied in promotions. Eligible candidates

have an opportunity to apply and participate in the promotion process as set forth in this policy.

Promotions are based upon the merits of the individuals and their personal performance in the promotion process, and never on favoritism or seniority alone. A promotion is an investment in the future, not only for the department, but also for the employees who will be supervised and guided by the promoted member.

POLICY:

It is the policy of this Department to recommend promotions based upon an employee's training, experience and merit. The Board of Selectmen is the Appointing Authority.

No employees will be denied promotion based upon any discriminatory criteria, including, but not limited to, their sex or sexual orientation, race, religion, nationality or union membership.

PROCEDURES:

Promotions of sworn personnel to the rank of Police Sergeant and if applicable, to Lieutenant are processed under the direction of the Chief and/or the Deputy Chief. His/her duties shall include:

Posting written announcements of any scheduled promotional opportunities.

1. Coordinating with any companies or consultants contracted to participate in the promotion process;
2. Protecting the integrity of the promotional process by ensuring that all promotional materials, documents, scores, and completed evaluations remain confidential and kept in a secure location; and
3. Maintaining copies of active promotion lists.

Testing and scoring materials shall not be left unattended for any period of time. Materials not under the immediate and direct control of a person authorized to possess them shall be kept in a secure area approved by the Town Administrator.

Promotional materials shall be retained as required by law. These include:

- I. Interview questions and score sheets; and
2. Assessment Center questions, exercises, evaluations and other related materials;

BMC

Notice of a Promotional Exam

The Chief, or his/her designee, shall advise all affected personnel of an upcoming promotional exam no less than 180 days in advance of the test date by:

1. Immediately posting the notice in a prominent place; and
2. Forwarding the notice to supervisors to be read at roll call.

Officers out sick or injured, on administrative or other leave, or on active military duty, or otherwise not likely to receive notice shall be mailed a copy of the examination notice.

A reading list of text books will be maintained and available to all personnel. The reading list will not be changed less than 180 days prior to an exam. Questions on case law and statutory law will not take into account law changes occurring less than 90 days prior to the exam.

Eligibility

Sergeant:

To be eligible for promotion to the rank of Sergeant the candidate must be a permanent member of this Department with a minimum of three years of completed service as a full-time Patrol Officer.

Lieutenant:

To be eligible for promotion to the rank of Lieutenant the candidate must be a permanent member of this Department with a minimum of one year of completed service as a full-time Sergeant.

Promotional Examinations

A Promotional Exam will be made available to interested candidates at least once every three (3) years for the position of Sergeant and, if then existing, Lieutenant. Should a vacancy occur that the Department elects to fill; and there are then currently no officers having attained a passing grade within the immediately preceding (2) years; a promotional exam will be scheduled as soon as reasonably practicable at the discretion of the Chief.

The exam will be pass/fail. Passing the exam will admit candidates to the next phase of the promotion process, where their scores may be considered as one of the factors in promotion.

Assessment Centers

Assessment centers may be used as part of the promotional process to rank each candidate.

Candidate Interviews

An oral board consisting of the Town Administrator, the Chief of Police and an additional officer of the same or higher rank than the applied-for position, as selected by the Chief, will conduct candidate interviews. Interviews shall be conducted from a prepared list of questions and the members of the oral board will rate the responses.

Candidate Selection

The Chief of Police shall make a recommendation for promotion from the list of eligible candidates based on the following criteria:

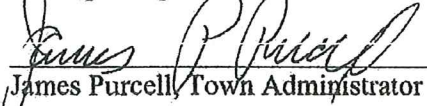
- Job related experience;
- Performance evaluation in his/her present position (including contributions to the department);
- Results of Assessment Center;
- Attendance record;
- Supervisory evaluation of the employee's promotion potential;
- Formal education;
- Training and education through career development;
- Disciplinary record of the employee;
- Attitude toward the department and police work; and
- Work ethic and initiative.

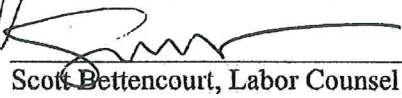
Final Selection

The Board of Selectmen is the appointing authority and shall determine the final selection of a candidate for promotion. There will be a promotional probationary period of one year for all new appointments.

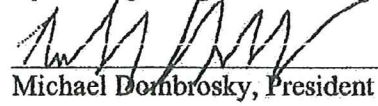
Dated: May 10, 2023.

Town of Avon, by:
its bargaining committee


James Purcell, Town Administrator



Scott Bettencourt, Labor Counsel

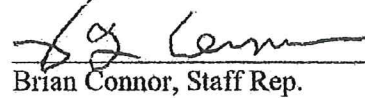
Avon Police Relief Association, IBPO Local 383
By its bargaining committee:


Michael Dombrosky, President


Erik Hauvuy


Brian McCarthy


Jeffrey Donovan


Brian Connor, Staff Rep.

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