



The Ethical Society of Police – E.S.O.P.

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Dear Chief Belmar,

Please accept this letter as our formal request that you revisit your interpretation of General Order 17-44 and the decision to remove nine officers from the list of candidates for oral boards in the current promotional process for Sergeant in the St. Louis County Police Department. Contrary to information contained in Lt. Webb's February 14, 2020, memo, General Order 17-44 does not limit the number of officers eligible for oral boards to three times the number of projected openings at the time the promotional process is announced. Rather, Section V.C. states that "[a]ny candidate who scores **in the 70% percentile** or higher on the written test will be placed on the list for oral boards." This means that you were well within policy in naming any of the forty-three officers who scored at least 70% on the written test for a chance to move on in the process.

Any limit on the number of candidates considered based on the number of projected openings should be interpreted as ensuring that at least three officers are considered for every projected vacancy. Indeed, the policy states "**at least three (3) candidates must be considered...**" The policy does not state "**no more than three (3) candidates can be considered...**" Therefore, regardless if the number of projected openings increased after the time the promotional process is announced, you are well within your discretion to raise the number of officers submitted for oral boards.

Having gone through the rigors of working, studying, and sitting for the written test administered by the Department, you are well aware of the honor and joy that accompanies seeing your name on the list of officers moving on. At no fault of your own or the officers whose names were removed, we now find our Department at a crossroad. We are respectfully asking you to do the right thing and allow the nine officers to appear before the oral board.

A more detailed analysis of how we arrive at our interpretation of Section V is attached.

Despite exchanges taking place in the media, we remain committed to resolving this issue within the Department. At a minimum, a statement from you regarding the interpretation of the Section V giving guidance for promotional processes in the future will ensure that this name-removal scenario does not happen again.

We await your response.

Respectfully,

The Ethical Society of Police

Analysis of General Order 17-44, Section V. Promotional Process for Sergeants

Section V provides "[t]he promotional process will consist of a written test. Any candidate who scores **in the 70% percentile** or higher on the written test will be placed on the list for oral boards. **However, at least three (3) candidates must be considered to have passed the test for every projected opening at the time the promotional process is announced.**" See, Section V.C. (emphasis in original). It is important to know that the rule emphasizes three things. The top 70% percentile, three candidates for every projected opening, and the time the process is announced. No greater weight is given to the timing of the announcement than to the top 70% threshold. Therefore, any suggestion that the number of candidates is capped at three for every projected opening at the time of the announcement is incorrect.

Rather, a more reasonable interpretation of Section V is that it allows the Chief to place every officer who scores in the top 70% on the list for oral boards if he chooses. The plain meaning of the phrase "**any candidate**" means just that -- any candidate who scores 70% or better. Not just the top candidates who score 70% or better. If the intention was to measure merit by something greater than a score of 70%, then the policy writers could have done so. They did not.

The use of the word "**however**" when referencing the "**at least three candidates...for every projected opening**" describes what the process will look like if an insufficient number of officers score 70% or better. Requiring "at least three" test-takers for every projected opening ensures that the Chief will have the ability to choose from multiple officers who may possess other attributes worthy of a sergeant that are not measured or determined by the test. Tellingly, Section V emphasizes **at least** three. The plain meaning of this phrase is one of increase and not of limitation. If the policy was intended to cap the number of officers eligible for oral boards at three officers for every projected opening, the policy would read "**no more than three...**" This is not the case. Indeed, nothing prevents the Chief from placing all forty-three officers who scored in the 70% percentile on the list for oral boards even though there were only eight projected openings at the time of the announcement. Forty-three officers scored in the 70% percentile. And forty-three names satisfies the rule of "at least three (3) candidates" for the number of projected openings at the time of the announcement; i.e. 43 is greater than 24 which means that "at least" three officers will be considered for the vacancies.

Further support for this interpretation of Section V is found in sub-section D which provides in pertinent part "**An alphabetical list of those candidates who achieved the 70th percentile or above on the written test will be published as soon as possible after the scoring is completed.**" Why would it be necessary to publish *the names* of every candidate who scored 70% or better if the number of officers eligible for consideration is limited by the number of projected openings? The names memorialize everyone still in the running for consideration.

Beyond that, sub-section E of Section V again references the 70% threshold, to wit "[t]hose candidates who score in the **70% percentile** or higher on the written test will appear before an oral board consisting of three (3) lieutenants from within the Department's ranks and a Captain who will provide oversight for the proceeding." Unlike the "at least three candidates" language that only appears in sub-section C, the 70% percentile rule appears in sub-sections C, D, and E -- each time in bold.

Clearly, the authors of the policy are emphasizing that the operative consideration for the Chief is on officers scoring in the 70% percentile. Nothing appears to limit the chief to only selecting three officers for every opening. So long as an officer scores at least a 70%, he or she should be considered for oral boards. True enough, the Chief can in fact limit the number of candidates to only three officers for every opening. Yet, the Chief is allowed to add to that number so long as everyone added scores at least a 70%.

Respectfully,

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