



**CITY OF BLOOMINGTON  
LEGAL DEPARTMENT  
MEMORANDUM**

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**TO:** City of Bloomington Common Council Members  
**FROM:** Christopher J. Wheeler, Assistant City Attorney  
**RE:** Proposed Resolution 2024-21 Rejecting the Merit System for the  
Bloomington Police Department  
**DATE:** October 17, 2024

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Unless rejected, merit systems will be established for all eligible police departments in the State of Indiana on January 1, 2025. (Please See I.C. 36-8-3.5-5.5(d)). Police Departments that have at least 12 active full-time, paid members and serve a geographic area that has a resident population of at least 20,000 are eligible. Bloomington Police Department is an eligible police department.

To reject a merit system, two things must occur on or before December 31, 2024: First, the Common Council must pass a resolution that rejects the merit system; Second, a majority of the full-time, paid members of the Police Department must vote to reject the merit system. If both of those things occur on or before December 31, 2024, then the merit system will be rejected.

The active full-time, paid members of the Bloomington Police Department have unanimously stated that they do not wish to have a merit system established at this time. The Department is not fully staffed and has limited human resources available to successfully continue to meet the Department's existing responsibilities. The Department does not wish to add more responsibilities that would pull any of those limited human resources away from the important task of policing. Creating a merit system would do just that. Merit systems require the creation of a merit commission. State statute requires that two members of the Department be appointed to the merit commission: Two members that the Department cannot currently afford to pull away from police activities. Merit commissions are statutorily obligated to conduct regular meetings annually as well as all special meetings as necessary to conduct the business of hiring, promoting, discipline and dismissal of the Department's members. In addition, merit commission are obligated to establish rules governing the hiring, promotion, discipline and dismissal of the Department's members. The Board of Public Safety already has a system in place to accomplish these tasks, has been successfully accomplishing these tasks for decades, and does so without pulling any additional Department personnel away from policing activities.

More on the creation and rejection of a merit system.

Statute permits one department to have a merit system while the other does not have the merit system. Establishing a merit system is easy: Simply do nothing and the merit system will take effect by statute on January 1, 2025. Whether a department rejects or establishes a merit system is not an irreversible decision. After one year, any department may revisit the issue and determine whether it wishes to reject or establish a merit system.

Rejecting a merit system requires both the adoption of a resolution by City Council and a majority vote of the Department's active full-time, paid members rejecting the merit system and both to those events must occur on or before December 31, 2024.

The first step in rejecting the merit system is for the City Council to adopt a resolution rejecting the merit system. If City Council votes "yes" on the resolution (thereby rejecting a merit system), then the resolution goes to the department for a vote. I.C. 36-8-3.5-5.5(e)(1)(A).

If a majority of the active full-time, paid members of the department vote "yes" on the resolution (thereby rejecting a merit system), then a merit system is not established on January 1, 2025.

I.C. 36-8-3.5-4 outlines the process for a department to vote on the resolution. Assuming the City Council votes to reject the merit system, then:

1. The Board Of Public Safety shall within 60 days of the passage of said resolution, give at least three weeks' notice to all active members of the department that a meeting will be held to approve or reject the merit system.
  - a. The notice shall be given by posting it in prominent places in all stations of the department.
  - b. The notice shall designate the time, place and purpose of the meeting.
2. The Board of Public Safety shall distribute a copy of the resolution to each active member of the department no later than one week before the date of the meeting. The statute is silent on how that distribution should take place. But the statute uses the word distributed as opposed to "posted". This suggests to me that each active member should receive his or her own copy of the resolution in some manner as opposed to merely posting it in prominent places. My recommendation would be to email the resolution to each active member and post it in prominent places in all stations of the department.
3. Only active members of the department may attend the meeting. **NOTE:** This is not a public meeting and therefore does not require adherence to open door laws. Although the BPS schedules the meeting, the BPS does not preside over, or even attend the meeting. Only active members of the department are allowed to attend. BPS members are not active members of either the police or fire department.
4. At the meeting, one of the active members shall be selected as the chair. The statute is silent on how that selection must occur.
5. All voting must be by secret written ballot.

6. Any and all other procedures for this meeting may be established by the Board of Public Safety. Those other procedures shall be posted in the same manner as the notice of the meeting. Those other procedures could include, among other things, the manner in which the chair is selected by the active members attending the meeting.
7. 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 year after the day the meeting is held.

The Bloomington Police Department intends to reject the merit system at this time and requests that the City of Bloomington Common Council pass the proposed resolution rejecting the merit system.