

STATE OF INDIANA) SS:

BEFORE THE STATE BOARD OF THE PUBLIC
EMPLOYEES' RETIREMENT FUND FOR THE 1977
POLICE AND FIREFIGHTERS' PENSION AND
DISABILITY FUND

IN THE MATTER OF STEPHEN PRIEM, CAUSE NO. [REDACTED]

ADMINISTRATIVE ADJUDICATION

The above referenced matter came on to be heard in accordance with IC 4-22-1-1 by the duly appointed hearing officer, Burton L. Garten, on the 12th day of February, 1986 in the offices of the Public Employees' Retirement Fund, Suite 800 Harrison Building, 143 West Market Street, Indianapolis, Indiana, 46204. Respondent, the Public Employees' Retirement Fund, was represented by H. Dudley Miller and the petitioner, City of Goshen Police Pension Fund, was represented by John C. Ruckelshaus.

Witnesses were sworn and testimony and exhibits were admitted into evidence.

Burton L. Garten now recommends transfer of the hearing findings of fact and decision to the State Board for its final decision and disposition of said matter.

FINDINGS OF FACT AND DECISION AND CONCLUSIONS
OF LAW ARE FOUND IN THE ATTACHED REPORT
OF THE HEARING DATED February 12, 1986

ADMINISTRATIVE ORDER

Based on the foregoing, the State Board of the Public Employees' Retirement Fund does hereby deny membership to Stephen M. Priem in the 1977 Police and Firefighters' Pension Fund, under IC 36-8-8-7, IC 36-8-8-19, and 35 IAC 2-1.1-3.

Richard T. Doermer, Chairman
J. Dwight Peterson, Vice Chairman
Myrl W. Deitch, Jr. Trustee
Al H. Harding, Jr., Trustee
Marie T. Lauck, Trustee

[REDACTED]
Board of Trustees
Public Employees' Retirement Fund

STATE OF INDIANA
PUBLIC EMPLOYEES' RETIREMENT FUND
143 WEST MARKET STREET, SUITE 800
INDIANAPOLIS, INDIANA 46204

In the matter of receiving additional evidence for the review of the findings of fact and the initial determination of the Public Employees' Retirement Fund on the application for membership in the 1977 Police and Firefighters' Pension and Disability Fund under IC 36-8-8-7 by Stephen Priem.

Reason for Action: PERF Initial Determination letter dated June 26, 1985 denying membership to Stephen Priem in the 1977 Police and Firefighters' Pension and Disability Fund.

Hearing Date: February 12, 1986 Place: Public Employees' Retirement Fund
Basement Conference Room, Harrison Building
143 West Market Street
Indianapolis, Indiana 46204

FINDING OF FACT AND DETERMINATION

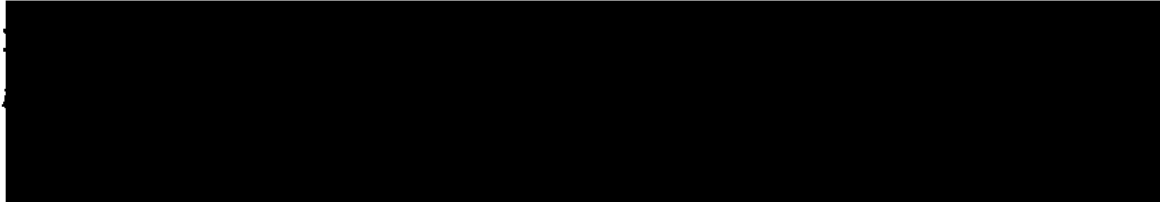
The above matter coming to be heard before Burton L. Garten, duly appointed to conduct administrative hearings, are provided by the Administrative Adjudication Act, Indiana Code 4-22-1.

The Public Employees' Retirement Fund (respondent) was represented by H. Dudley Miller. City of Goshen Police Pension Fund (petitioner) was represented by John C. Ruckelshaus.

PETITIONER'S EXHIBITS

Copy of:

1. Letter from David L. Cripe, O.D. to Larry Sarver, Chief of Police, dated December 27, 1985.
2. Letter from Robert M. Troyer, M.D. to the Goshen Police Pension Fund, dated May 28, 1985 along with an official transcript from the Indiana Law Enforcement Academy.

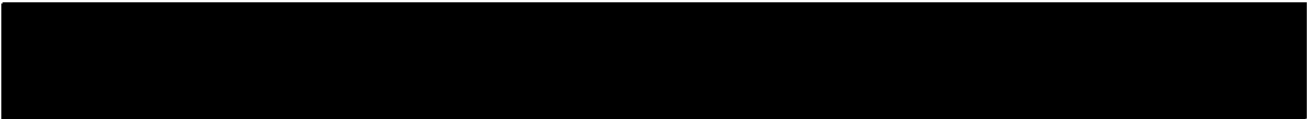
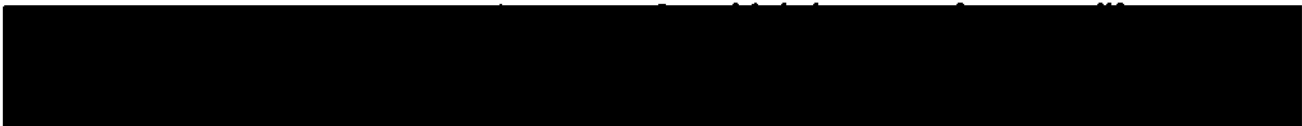
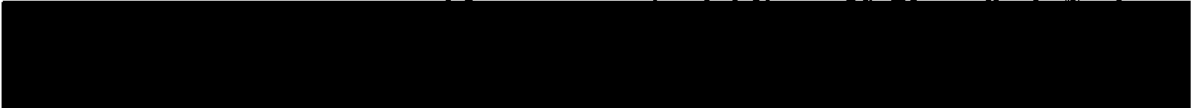


RESPONDENT'S EXHIBITS

A Pre-Membership, Physical Exam and Laboratory Assessment Form, dated December 6, 1984.

FACTS:

Stephen Priem was employed by the Goshen Police Department January 1, 1985. When he went through the physical examination required for membership in the 1977 Police and Firefighters' Pension and



FACTS (CONTINUED)

An initial determination letter of June 26, 1985 from L. H. Earle, II, Executive Secretary of the Public Employees' Retirement Fund, denied membership in the 1977 Fund as a result of Mr. Priem's failure to pass

The Goshen Police Pension Fund has appealed.

FINDINGS:

Indiana Code 36-8-8-7 reads in part:

"(a) Except as provided in subsections (d), (e), and (f) of this section:

- (1) a police officer who has not reached his thirty-six birthday; or
- (2) a firefighter who has not reached his thirty-sixth birthday;

who passes a physical examination and mental examination prescribed by the local board under section 19 of this chapter is a member of the 1977 Fund and is not a member of another pension fund.

Indiana Code 36-8-8-19 reads in part:

"(a) The physical examination required by section 7(a) of this chapter shall be administered by a licensed physician and must include a general medical history and at least the following physical examinations:

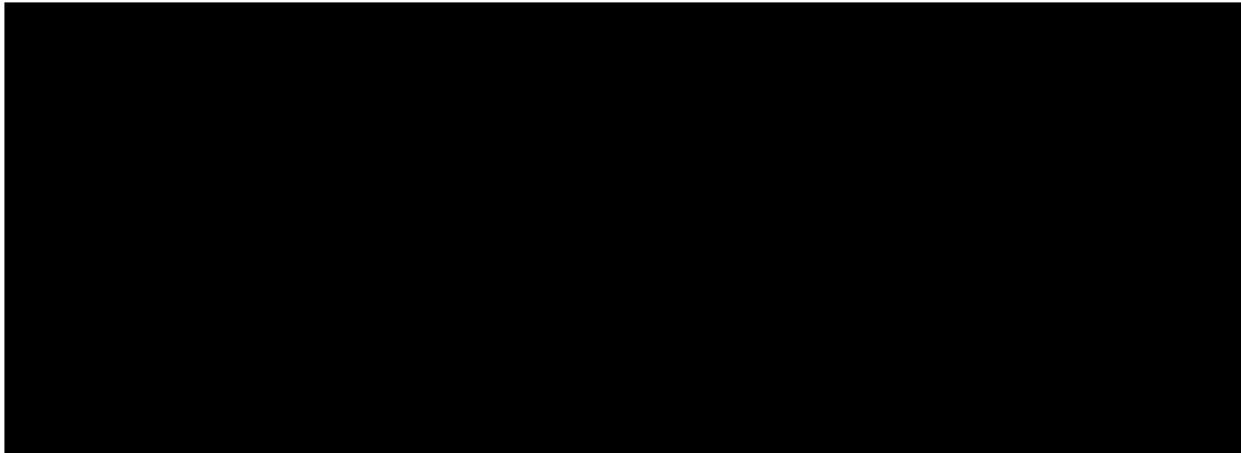
- (1) Visual testing by Snellen Chart
- (2) Pulmonary function test
- (3) Chest x-ray (posterior-anterior and lateral views)
- (4) Lumbosacral spine x-rays (anterior-posterior, lateral, and oblique views)
- (5) Treadmill test
- (6) Twelve (12) lead E.C.G.
- (7) Urinalysis
- (8) V.D.R.L. test
- (9) Audiometric test
- (10) "Profile 4" tests from which liver, kidney, blood and metabolic tests may be detected.

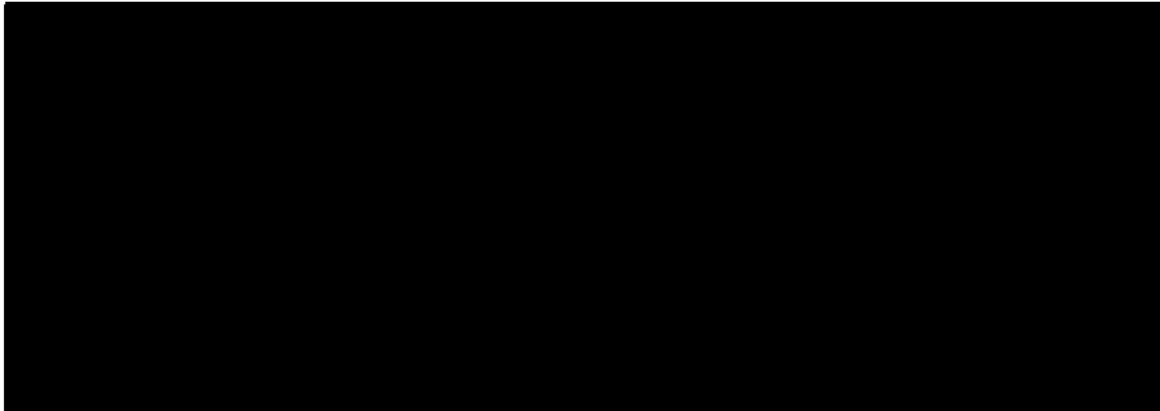
The PERF Board shall adopt minimum standards by rule under IC 4-22-2 that a police officer or firefighter must meet for the physical examination.

- (b) The mental examination required by section 7(a) of this chapter shall be administered by a licensed physician or a licensed psychologist, who shall determine if the police officer or firefighter is mentally suitable to be a member of the department.
- (c) The employer shall pay for no less than one-half (1/2) the cost of the examinations.
- (d) Each local board shall name the physicians and psychologists who will conduct examinations under this section.
- (e) If a police officer or firefighter passes the physical and mental examinations and becomes a member of the department, copies of the results of the examinations shall be sent to the PERF Board, which shall retain them until the police officer or firefighter is found to be disabled, retires, or separates from the department. As added by P.L. 365-1983, SEC. 2."

35 IAC 2-11.3 reads in part:

As determined by the physician's examination of the applicant, the following conditions will result in rejection of the applicant except as otherwise indicated:





DECISION AND CONCLUSION OF LAW:

Based on the evidence and testimony presented, and in view of the above facts and findings, I, Burton L. Garten, duly appointed hearing officer for the State Board of the Public Employees' Retirement Fund, would recommend the denial of membership to Stephen Priem in the 1977 Police and Firefighters' Pension and Disability Fund pursuant to IC 36-8-8-7, IC 36-8-8-19, and 35 IAC 2-1.1-3.

Burton L. Garten

Burton L. Garten, Hearing Officer
Public Employees' Retirement Fund

February 28, 1986