

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Law Enforcement Training and Certification Standards

Rule Title: _____
 Type of Rule: Legislative Interpretive Procedural
 Agency: Governor's Committee on Crime, Delinquency and Correction
 Address: c/o West Virginia Division of Justice and Community Services (DJCS)
1204 Kanawha Boulevard East, Charleston, WV 25301 Attn: Retired Captain
Chuck Sadler
(304) 941-9644 (cell)
 Phone Number: (304) 558-8814 ext 53315 Email: Charles.A.Sadler@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

There will be no impact on the costs and revenue of state government from the changes proposed in the changes to this rule. The changes relate to the actions to be taken and the standards concerning the training and standards for the certification of law enforcement officers within this state. None of these changes address fiscal related matters of state government

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0.00	0.00	0.00
Personal Services	0.00	0.00	0.00
Current Expenses	0.00	0.00	0.00
Repairs & Alterations	0.00	0.00	0.00
Assets	0.00	0.00	0.00
Other	0.00	0.00	0.00
2. Estimated Total Revenues	0.00	0.00	0.00

Law Enforcement Training and Certification Standards

Rule Title: _____

Rule Title: _____

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

Not applicable, there will not be any increase or decrease from proposed changes

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Addressed within balance of form

Date: 9 Sep 14

Signature of Agency Head or Authorized Representative



W Richard Staton, Executive Director

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: 9 Sep 14

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* Governor's Committee on Crime, Delinquency and
Correction. c/o West Virginia Division of Justice and
Community Services, 1204 Kanawha Boulevard East,
Charleston, WV 25301. Attn: Retired Captain Chuck Sadler
at (304) 558-8814, ext 53315 Charles.A.sadler@wv.gov

LEGISLATIVE RULE TITLE: _____
Law Enforcement Training and Certification Standards 149-2

1. Authorizing statute(s) citation 30-29-3

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
4 Aug 14

b. What other notice, including advertising, did you give of the hearing?
Sent electronically to 2,000 law enforcement officers within the state through established law
enforcement related list serve and to each of the professional and fraternal law enforcement
associations and organizations within the state.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
5 Sep 14

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons
for amendments.

Attached _____ No comments received XX

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

9 Sep 14

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Retired Captain Chuck Sadler, law Enforcement Professional Standards Program
(LEPS) Director. West Virginia Division of Justice and Community Services
(DJCS) , 1204 Kanawha Boulevard East, Charleston, WV 25301 (304) 558-8814,
ext 53315 (w) (304) 941-9644 (cell) (304) 558-0391 (fax)
Charles.A.Sadler@wv.gov

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

N/A - same person

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A



Law Enforcement Training and Certification Standards

Summary of Proposed Changes to Title 149, Series 2

The members of the Law Enforcement Professional Standards (LEPS) Subcommittee, a subcommittee of the Governor's Committee on Crime, Delinquency and Correction, in recognition of the need to make necessary changes to the current rule to allow for the certification and training of West Virginia law enforcement officers to remain current with the best practices concerning such certification and training met April 22-23, 2014 to address proposed changes to this rule. As a result of the discussion of the subcommittee members, a quorum being present and it being the unanimous decision of those present as to each proposed change, a series of changes were set forth to the current rule.

The changes proposed set forth address definition related changes, the use of similar terms through the section addressing entry level training, the removal, as to listing within the rule itself, but keeping the standards/requirements in effect, as pertains to the tasks an entry level law enforcement officer needs to be able to perform on completion of his or her entry level training and the medical standards for admission into an entry level training program.

The changes proposed also address and clarify the process to be carried out concerning officers who are seeking to have their certification as an officer in this state reactivated as a result of a change in employment when certain circumstances exist as to the reason/s that the officer left his or her former law enforcement employer as well as the process by which the Subcommittee may, when necessary, subpoena records relevant to such reactivation reviews and adding the ability to subpoena such relevant records in matters pertaining to admission to an entry level training program and a review of an officer's certification as an officer in this state.

The changes lastly clarify the appeal process for an individual of a final decision of the LEPS Subcommittee to the Governor's Committee on Crime, Delinquency and Correction.

Questions concerning the proposed changes should please be directed to Retired Captain Chuck Sadler, LET Coordinator, at (304) 558-8814, ext 53315, (304) 941-9644 (cell) or Charles.A.Sadler@wv.gov





Department of Military Affairs & Public Safety

**TITLE 149
LEGISLATIVE RULE
GOVERNOR'S COMMITTEE ON CRIME, DELINQUENCY
AND CORRECTION**

**SERIES 2
LAW ENFORCEMENT TRAINING AND
CERTIFICATION STANDARDS**

STATEMENT OF FACTS AND CIRCUMSTANCES

Questions should please be directed to:

Retired Captain Chuck Sadler
(304) 558-8814, ext 53315 (work)
(304) 941-9644 (cell)
Charles.A.Sadler@wv.gov

The following amendments to 149CSR2 are being proposed:

§149-2-2 Definitions

- **2.11.**

Added the words "those persons employed as law enforcement officers at airport authorities" to clarify the previously held position that such individuals are certified law enforcement officers in the state.

Removed the word "the" and replaced with the words "Provided that" to allow for the proper flow of the wording in this closing sentence.

- **2.21.**

Added the words " "Trainee" means any individual attending an entry level law enforcement certification program" to allow for the common use and definition of who such individuals were in the sections of this rule addressing the entry level training program.



- 2.22.

With the added definition of Trainee 2.21 becomes 2.22.

§149-2-6. Training Academy Policies

- 6.1.

Removed the words “An officer” and replaced with the word “Trainees” to allow for common reference to individuals attending an entry level training program to gain certification as a law enforcement officer in the state.

- 6.2.

Removed the words “an officer,” “Students,” “individual’s,” “students” and “student” and replaced with either singular, possessive or plural forms of the word “trainee” as applicable. Action taken to allow for common reference to individuals attending an entry level training program to gain certification as a law enforcement officer in the state.

- 6.3.

This section was not numbered in proper sequence, believed to have been an oversight in prior rule modifications. 6.2.a. becomes 6.3. as it should have been previously.

Removed the words “Students” and “student” and replaced with either singular or plural forms of the word “trainee” as applicable. Action taken to allow for common reference to individuals attending an entry level training program to gain certification as a law enforcement officer in the state.

- 6.4.

Added the words “or the trainee” to clarify who may appeal a decision of the Director of Training to deny entry into another entry level training class of a former trainee who has withdrawn from a prior entry level training class.

- 6.5.a.

Removed the word “officer” in two locations and replaced in each instance with “trainee” to allow for common reference to individuals attending an entry level training program to gain certification as a law enforcement officer in the state.

Removed the words "Executive Director of the Committee" and replaced with the word "Subcommittee" to reflect the proper next level for such an appeal to be filed.

- **6.5.b.**

Removed the word "person" and replaced with "trainee" to allow for common reference to individuals attending an entry level training program to gain certification as a law enforcement officer in the state.

Removed the words "necessary, a subsequent appeal shall be in accordance with the Administrative Procedures Act. W.Va. Code §29A-3-1 et seq." and replaced with "this initial appeal is denied the trainee may appeal to the Subcommittee. An appeal of the decision made by the Subcommittee will be as set forth in §149-2-20 of this rule." to clarify the proper sequence/procedure for the filing of an appeal in a dismissal related action taken for other than scholastic reasons. NOTE: §149-2-20 is a new proposed section of this rule.

§149-2-7. Academy Training Curriculum.

- **7.1.**

Removed the word "basic" and replaced with "entry level" to allow for the correct reference to the type of training program.

§149.2.8. Academy Entry Standards.

- **8.2.a.**

Removed the words "after receiving written notification from their employer" and commas before and after this removal and added the words "Their employer should provide written notice to the Academy or the Subcommittee of this officer's employment, to include personal identification information, date of employment and information as to whether the individual has worked as a law enforcement officer before as close as possible to the decision to employ the individual." This change made to reflect and clarify the information that is required to be submitted concerning an individual who has been employed as a sworn officer in this state and needs to complete the entry level or other training to gain certification as a law enforcement officer in this state.

- **8.3.**

Removed the word "following" and a ":" and added wording as follows in reference to this section to allow for the changing of entry level job task descriptions and tasks by Subcommittee action instead of legislative review and change, the wording added being "established by the Subcommittee of a law enforcement officer. These functions may be set based on job task analysis evaluations, law enforcement officer performance research and the experience of the Subcommittee members and law enforcement professionals and administrators. The functions so established by the Subcommittee will available for review from the Subcommittee and will be posted on the website of the West Virginia

Division of Justice and Community Services' on the page supporting the Subcommittee.

- **8.3.a. through 8.3.n.6. and 8.4 through 8.4.t.**

Removed all of the wording in these sections. As noted in preceding section, action reference 8.3, this action taken to have these sections reflected on the webpage of the West Virginia Division of Justice and Community Services, Subcommittee section, as the tasks that an entry level law enforcement officer should be able to perform upon the completion of the entry law enforcement training program in this state. This removal will allow for ease, as required, for the modification and change in any of these required tasks with the approval of the Subcommittee members. They still remain the tasks an officer should be able to complete.

- **8.4**

With the removal of 8.4, Equipment Used by Law Enforcement Officers, 8.5 becomes 8.4.

Removed the words "physician's" "(Chem 20 or equivalent)" "(with dipstick)" "(Mantoux)" "(resting)" and "(DOH 5 or 8 10 panel)" and added the words "and" and "The criteria as to type and method of evaluation of any required laboratory tests will be established by the Subcommittee." to reflect and allow for the Subcommittee to set the type of lab tests required and method used to complete them.

- **8.4.a.**

With the removal of 8.4, Equipment Used by Law Enforcement Officers, 8.5.a. becomes 8.4.a.

- **8.4.b.**

With the removal of 8.4, Equipment Used by Law Enforcement Officers, 8.5.b. becomes 8.4.b.

Added the words "or its most current equivalent" to allow for any changes made in National Firefighters Protections Standards 1582, one of the medical standards set in code and rule for certain officers to meet, to be made automatically as the standards change, thereby not requiring legislative review and action each time the standard would change.

- **8.4.c.**

With the removal of 8.4, Equipment Used by Law Enforcement Officers, 8.5.c. becomes 8.4.c.

- **8.4.d.**

With the removal of 8.4, Equipment Used by Law Enforcement Officers, 8.5.d. becomes 8.4.d..

Removed the word "following" and added the words "medical and physical", "established by the Subcommittee which may interfere with the applicant's ability to perform the essential functions established by the Subcommittee for an entry level law enforcement officer. The conditions established by the Subcommittee will be available for review and will be posted on the website of the West Virginia Division of Justice and Community Services." and "in the listed conditions" to allow for the removal of the listing of specific medical conditions within 8.5.d.1. through 8.5.d.12.J. for placement on the webpage of the West Virginia Division of Justice and Community Services, Subcommittee section, as the medical standards required for entry into an entry level training program. The current set medical standards will remain in full force by this wording, but this action will facilitate the change in future, as required upon evaluation by the Subcommittee and applicable experts, in such standards, as necessitated in the job tasks an officers needs to be able to complete in this state, by changes in medical process and testing or by legal decisions. This change will facilitate any such required changes at the Subcommittee level without a required review and action during a legislative rule review process.

- **8.5.d.1. through 8.5.d.12.J.**

Removed all of the wording in these sections. As noted in preceding section, action reference 8.4.d., this action taken to have these sections reflected on the webpage of the West Virginia Division of Justice and Community Services, Subcommittee section, as the medical standards that an individual seeking into an entry law enforcement training program in this state will be evaluated by. This removal will allow for ease, as required, for the modification and change in any of these required medical standards with the approval of the Subcommittee members. They still remain the medical standards that must be met by an individual seeking acceptance into an entry level training program to gain certification as an officer in this state.

- **8.4.e.**

With the removal of 8.5.d.1. through 8.5.d.12.J. 8.5.d.13. becomes 8.4.e.

Removed the words "listed in this Subsection of this Rule" and added the words "medical or physical", "approved by the Subcommittee" and "to determine the condition's impact upon the applicant's ability to perform the essential functions that an entry level law enforcement officer should be able to perform, » to clarify that any medical condition taht an individual would have that could impact his or her ability to perform the tasks required of an entry level law enforcement officer in this state, that additonal medical testing can be required and that susch testing is at the expense of the applicant.

- **8.5.**

With the removal of 8.5.d.1. through 8.5.d.12.J. 8.6. becomes 8.5.

- **8.5.a.**

With the removal of 8.5.d.1. through 8.5.d.12.J. 8.6.a. becomes 8.5.a.

- **8.5.b.**

With the removal of 8.5.d.1. through 8.5.d.12.J. 8.6.b. becomes 8.5.a.

- **8.5.c.**

With the removal of 8.5.d.1. through 8.5.d.12.J. 8.6.c. becomes 8.5.c.

Removed the word "tasks" and replaced with the word "functions" Removed the word "the" and replaced with the word "an". Removed the words "as listed in this Rule" and replaced with the words "approved by the Subcommittee. Removed the word "candidate's" and replaced with the word "applicant's" Removed the words "Any applicant unable to obtain the 40th percentile shall be invited to retry at the next available basic entry level training class" and replaced it, in same paragraph/section but preceding where removed words had been, with the words "The retest (e.g. second attempt to obtain the 40th percetile on an element of the test battery successfully) will be on different date, as set by the Director, to gain entry into the next available entry level training program. » Added the words «An applicant who is waiting to retest must insure that their medical examintion, and its associated tests, was completed within one year immediately preceding the date of the retest. »

These changes made to clarify the requirements concerning the physical ability standards testing process as to the overall test process, components of the process , when a retest may be taken and requirement for an applicant to keep their records current while awaiting a retest.

- **8.5.d.**

With the removal of 8.5.d.1. through 8.5.d.12.J. 8.6.d. becomes 8.5.d.

- **8.5.d.1.**

With the removal of 8.5.d.1. through 8.5.d.12.J. 8.6.d.1.. becomes 8.5.d.1.

- **8.5.d.2.**

With the removal of 8.5.d.1. through 8.5.d.12.J. 8.6.d.2. becomes 8.5.d.2.

- **8.5.d.2.A.**

With the removal of 8.5.d.1. through 8.5.d.12.J. 8.6.d.2.A. becomes 8.5.d.2.A.

- **8.5.d.2.B**

With the removal of 8.5.d.1. through 8.5.d.12.J. 8.6.d.2.B. becomes 8.5.d.2.B.

- **8.5.d.3.**

With the removal of 8.5.d.1. through 8.5.d.12.J. 8.6.d.3. becomes 8.5.d.3.

- **8.5.e.**

With the removal of 8.5.d.1. through 8.5.d.12.J. 8.6.e. becomes 8.5.e.

- **8.5.f.**

With the removal of 8.5.d.1. through 8.5.d.12.J. 8.6.f. becomes 8.5.f.

- **8.5.g.**

With the removal of 8.5.d.1. through 8.5.d.12.J. 8.6.g. becomes 8.5.g.

§149-2-11. Supervisory In-Service Training

- **11.2.**

The word eight is not capitalized, changed form “Eight” to “eight” to allow for proper reading/emphasis.

§149-2-16. Certification Denial, Suspension or Decertification

- **16.1.d.**

Added the words “or having been placed in or participated in any pretrial diversion or equivalent program for the same » to allow the Subcommittee to still be able to take necessary action concerning an officer’s certification or an individual’s application to attend an entry level training program when, on review, it is determined that the conduct, actions or behavior of the officer or individual warrant it.

- **16.1.j.**

Added a subsection with the words “An inability to lawfully carry a firearm under state and/or federal statute. » to clarify the Subcommittee’s ability to review and take appropriate action when such a condition applies ;

- **16.1.k**

With the addition of 16.1.j., new subsection, prior 16.1.j. becomes 16.1.k.

§149-2-17. Certified law Enforcement Officers Separated From Employment.

- **17.3.a.**

Removed all of the wording in 17.3.a. and replaced with "Upon receipt of an application for reactivation the Chair of the Subcommittee shall review the notification of separation received from the law enforcement agency with which the applicant was most recently employed. The Chair of the Subcommittee may grant the applicant a temporary reactivation of his or her certification until a determination is made pursuant to Subsection 17.5 of this Rule. The Chair of the Subcommittee shall notify the Subcommittee of his or her actions and decisions." Change made to clarify the process concerning the review and action concerning an officer's (applicant) request to have his or her certification reactivated.

- **17.3.b. through 17.3.b.2.**

Removed all of the wording in these sections and replaced with the words, only as 17.3.b., "Upon receipt of an application for reactivation the Chair of the Subcommittee may request that the law enforcement agency from which the applicant was most recently separated to provide a copy of all information relevant to the applicant's separation from employment." Change made to clarify the process concerning the review and action concerning an officer's (applicant) request to have his or her certification reactivated.

- **17.3.c.**

Added a subsection with the words "To allow for the completion of the actions set forth in 17.3.a. through 17.3.b. of this Rule the Chair may empower an employee of the Division of Justice and Community Services to act upon his or her behalf to insure that these actions are completed." Change made to clarify and reflect the existing process concerning the review and action concerning an officer's (applicant) request to have his or her certification reactivated.

§149-2-18. Subpoena Power

Added a new section, 149-2-18, 18.1 through 18.1.b. with the words:

"18.1 For the purpose of making a determination of an application for reactivation, or to determine if one of the circumstances addressed in §149-2-16.1 of this Rule are present, the Subcommittee may examine witnesses and subpoena persons, books, records or documents from law enforcement agencies in this state.

18.1.a/ The Chair of the Subcommittee shall request that subpoenas be issued.

18.1.b. The Subcommittee may empower an employee of the Division of Justice and Community Services to act on the Chair and its behalf as to the issuance of such subpoenas, their delivery, the receipt of the information called for, to prepared information for presentation to the Subcommittee and report findings of fact to the Subcommittee.”

This new section added to place language previously under 17.3.b through 17.3.b.2 in a new section to clarify the ability of the Chair and Subcommittee concerning subpoenas and how they are handled while also giving the Chair and the Subcommittee the authority allowed under code to seek information, through subpoena, concerning the action and conduct of officers as relating to their certification as an officer in this state or as an applicant to an entry level training program addressed in 17.6.1.

§149-2-19 Certification Retention

With the addition of 17-2.18, the previous 149-2-18, Certification Retention, becomes 149-2-19 and all of the subsection within it are changed from “18” to “19”

§149-2-20 Appeal of a Decision of the Subcommittee

New section added, with words that follow, to list the existing process, by code and administrative process, concerning what final decisions of the Subcommittee may be appealed and spelling out the process concerning such an appeal. Addition creates §149-2-20 through 20.2.

“149-2-20 Appeal of a Decision of the Subcommittee

20.1 An individual who has been denied entry into the entry level certification program, a trainee who has not been allowed to continue in the entry level training process for other than scholastic reasons, an officer who has made application for his or her certification to be reactivated and that application has been denied, an officer or individual whose certification as a law enforcement officer or as an instructor has been denied, suspended or decertified pursuant to a final decision of the Subcommittee, may appeal that final decision of the Subcommittee to the Governor’s Committee on Crime, Delinquency and Correction.

20.2 On receipt of such an appeal in a timely manner the Governor’s Committee may designate the Executive Director of the Committee to hear the appeal. The Committee or Executive Director may appoint a hearing examiner to develop a record of the appeal by taking evidence on the matter and to make a recommended decision to the Committee or Executive Director pursuant to W. Va. C.S.R. §149-1-1 *et seq* and W. Va. Code 29A-5-1 *et seq*.”

TITLE 149
LEGISLATIVE RULE
GOVERNOR'S COMMITTEE ON CRIME, DELINQUENCY AND CORRECTION

FILED

2014 SEP -9 P 2: 26

SERIES 2
LAW ENFORCEMENT TRAINING AND CERTIFICATION STANDARDS

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§149-2-1. General.

1.1. Scope. -- This legislative rule establishes standards for basic training academies with medical admission guidelines and the job description of an entry-level officer. This rule also outlines annual in-service and biennial in-service training, continued certification, re-certification and de-certification standards for law enforcement officers.

1.2. Authority. -- W. Va. Code §30-29-3.

1.3. Filing Date. -- ~~March 26, 2014~~

1.4. Effective Date. -- ~~April 28, 2014~~

§149-2-2. Definitions.

2.1. "Approved law enforcement training academy" means any training facility that is approved and authorized by the Governor's Committee on Crime, Delinquency and Correction, on recommendation by the Law Enforcement Professional Standards Subcommittee, to conduct law enforcement training.

2.2. "Chief executive" means the superintendent of the State Police; the chief Natural Resources Police officer of the Division of Natural Resources; the sheriff of any West Virginia county; any administrative deputy appointed by the chief Natural Resources Police officer of the Division of Natural Resources; the chief of any West Virginia law-enforcement agency, the chief of any campus police agency at state institutions of higher education or the chief of Hatfield-McCoy regional recreation authority.

2.3. "Conviction" means an adjudication of guilt or a plea in a criminal case in this state or any other municipal, federal, tribal, military or state jurisdiction. "Conviction," when used herein applies to convictions entered both before and after the effective date of this section.

2.4. "County" means any one of the fifty-five major political subdivisions of the state.

2.5. "Division" means the Division of Justice and Community Services (DJCS) of the Department of Military Affairs and Public Safety.

2.6. "Exempt rank" means any noncommissioned or commissioned rank of sergeant or above as regarding the requirements set forth in this rule.

2.7. "Firearms Officer" means any individual who has successfully completed a Subcommittee approved Law Enforcement Firearms Handgun Instructor course but does not hold the Firearms Instructor status as defined in section 5.2 of this rule.

2.8. "Good standing" means any law enforcement officer that has not been denied certification or had his or her certification revoked or suspended by the Governor's Committee on Crime Delinquency and Correction pursuant to the provisions of this Rule; except that for the purposes of re-certification pursuant

to section 149-2-15 of this Rule only, an officer is considered to be in good standing even if his or her certification was not renewed for failing to attend mandated in-service training because of his or her position as a law enforcement official.

2.9. "Governor's Committee on Crime, Delinquency and Correction" or "Governor's Committee" or "Committee" means the Governor's Committee on Crime, Delinquency and Correction established as a state planning agency pursuant to W. Va. Code §15-9-1 with duties as set forth in W. Va. Code §30-29-3 and this Rule.

2.10. "Inactive" as it relates to certification means the status of a previously certified officer upon separation from employment and prior to reactivation by the subcommittee thereby placing the individual in a non-law enforcement status as provided for in subsection 2.13 of this section.

2.11. "Law enforcement officer" means any duly authorized member of a law enforcement agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests and enforce the laws of the state or any county or municipality of the state, other than parking ordinances, including persons employed as campus police officers at state institutions of higher education, those persons employed as rangers by the Hatfield-McCoy regional recreation authority, those persons employed by the Public Service Commission as motor carrier inspectors and weight enforcement officers, those persons employed as law enforcement officers at airport authorities and those persons employed as resort area rangers at resort area districts. Provided that, The the term "law-enforcement officer" does not apply to the chief executive of any West Virginia law-enforcement agency or any watchman or special natural resources police officer.

2.12. "Law enforcement official" means the duly appointed chief administrator of a designated law enforcement agency or a duly authorized designee.

2.13. "Law Enforcement Professional Standards Information System (LEPSIS)" means the electronic database used to track law enforcement officer training and certification.

2.14. "Level 1 Instructor" means those individuals that have met the criteria established in this rule to conduct entry level and in-service training programs.

2.15. "Level 2 Instructor" means those individuals that have met the criteria established in this rule to conduct instructor level training.

2.16. "Municipality" means any incorporated town, village or city whose boundaries lie within the geographic boundaries of the state.

2.17. "Non-law enforcement status" means an officer may not wear the uniform of that agency, may not be armed, and will not perform the duties of a law enforcement officer as defined in W. Va. Code §30-29-1 and section 149-2-8.3. of this Rule. An officer in non-law enforcement status shall not present himself or herself in any manner that a reasonable person would perceive him or her to be a law enforcement officer, except as provided for in state code. This Rule does not require an employing agency to create a non-enforcement position for applicants who are unable to complete the physical ability test for admission to an entry-level training program.

2.18. "Reactivation" as it relates to certification means having an officer's status reinstated from inactive status.

2.19. "Scholastic failure" means the failure of required graded academic examinations or evaluated skill courses.

2.20. "Subcommittee" or "law enforcement professional standards subcommittee" means the subcommittee of the Governor's Committee on Crime, Delinquency and Correction established pursuant to W. Va. Code §30-29-2 with duties as set forth in W. Va. Code §30-29-3 and this Rule.

2.21. "Trainee" means any individual attending an entry level related law enforcement certification training program.

~~2.21~~22. "West Virginia law enforcement agency" means any duly authorized state, county or municipal organization including any campus police agency at state institutions of higher education or the Hatfield-McCoy regional recreation authority employing one or more persons whose responsibility is the enforcement of law of the state or any county or municipality of this state.

§149-2-3. Academy Facility Standards.

3.1. Location. -- Basic training may be provided at a single central location or at a central location and one (1) or more regional locations. The standards outlined in this Rule apply to any facility where basic training will be conducted and shall insure that the training shall be carried out in an adequate and proper setting.

3.2. Facility. -- The facility may be a single building, a room or rooms in a building or more than one building, which provides adequate space to meet the needs of people undergoing training over a period of several weeks.

3.3. Classrooms.

3.3.a. The classroom shall be large enough to comfortably accommodate the largest anticipated attendance. Minimum registration for any entry level training class funded by the Subcommittee is twenty-five (25) officers.

3.3.b. Artificial or day lighting shall provide good visibility at all times and permit the utilization of visual training materials.

3.3.c. Adequate ventilation and seasonal temperature control shall be provided. The system shall provide for individual classroom control if more than one classroom is used.

3.3.d. Acoustics shall be adequate to enable the speaker to be heard from any place in the classroom being used. A public address system shall be provided if needed.

3.4. Classroom Amenities.

3.4.a. All desks shall have smooth tops and shall be of sufficient size to accommodate adult trainees.

3.4.b. Display surfaces shall be positioned to permit unobstructed viewing from the rearmost area of the classroom and shall be of an appropriate size to allow material displayed and/or writing to be viewed by all participants.

3.4.c. Each classroom, if necessary, shall be equipped with a lectern to accommodate lecture materials.

3.4.d. All appropriate audio and video equipment and training aids shall be available and operable at the beginning of each class.

3.5. Up-to-date court rulings as well as current copies of law enforcement related periodicals shall be made readily available when necessary.

3.6. Firearm Range. -- The firearm range shall meet or exceed all safety standards promulgated by the National Rifle Association.

3.6.a. The range shall be appropriate for the weapons training or certification being conducted and will be located within reasonable driving distance from the academy site.

3.6.b. It shall permit sole occupancy by law enforcement agencies when in use by them for firearms training or qualification.

3.6.c. Curriculum firearms training time does not include travel time if the range is more than 15 minutes from the academy site.

3.7. Physical Training Room. -- Each facility shall include one room of sufficient size to accommodate trainees during physical fitness and defensive training.

3.8. Common Study Area -- Each facility shall include one room of sufficient size to accommodate study time.

3.9. Restrooms. -- Separate restroom facilities of sufficient size and number to accommodate the needs of both sexes shall be provided in close proximity to the classrooms.

3.10 Parking. -- Adequate and free parking space shall be provided. The parking area shall be within reasonable walking distance of all classrooms.

3.11 Supplies. -- Each trainee shall be furnished with the following supplies as needed:

3.11.a. Ammunition for firearms training;

3.11.b. Information Storage Device sufficient to accommodate all notes and handout materials;

3.11. c. Legal pads in a sufficient number to permit taking of detailed notes throughout duration of training program;

3.11.d. A current copy of all relevant West Virginia Code sections;

3.11.e. Writing instruments in a sufficient number to permit taking of detailed notes throughout the duration of the training program;

3.11.f. A copy of the course schedule;

3.11.g. A copy of the rules governing operation of the training facility; and,

3.11.h. Handout materials required by the instructors.

3.12. Food Services. -- Law enforcement training academies shall provide food service:

3.12.a. If in-house food service is available and provided, all food preparation and dining facilities shall be established and maintained in accordance with applicable state and local health department rules.

3.12.b. If commercial food services are utilized, these services should be located within a distance that would allow the trainee to leave, eat, and return to class within sixty (60) minutes.

3.13. Medical Facility. -- A medical facility within a reasonably close proximity to training site shall be identified.

§149-2-4. Academy Staffing.

4.1. Director of Training.

4.1.a. Appointment. -- The appointment of a Director of Training (Director) shall be made by the head of the law enforcement agency if the academy is under the control of a police agency. If under an academic institution the head of the department may make the appointment under which the training will be provided.

4.1.b. Approval. -- The Director of an academy other than the West Virginia State Police Academy shall be approved by the Committee, following recommendation by the Subcommittee, based on a composite assessment of the candidates' education, training, administrative and law enforcement experience.

4.1.c. Responsibilities. -- The Director has the overall responsibility for the operation of the training program and the authority to carry out the following responsibilities:

4.1.c.1. Ensuring that all personnel comply with policies, procedures and regulations governing the training program;

4.1.c.2. Selecting qualified instructors;

4.1.c.3. Recommending and requesting the reassignment of training personnel;

4.1.c.4. Maintaining the professional skills and abilities of personnel assigned to the training program;

4.1.c.5. Assigning instructors only to areas in which they are qualified to teach and monitoring their quality of instruction through regular supervision;

4.1.c.6. Requiring all applicants to provide a medical examination that shows they meet the requirements for admission to a basic entry-level training program and successfully complete the physical fitness test battery for entry into an entry-level training program;

4.1.c.7. Exercising administrative and supervisory control over personnel;

4.1.c.8. Dismissing trainees;

4.1.c.9. Excusing absences of trainees; and,

4.1.c.10. Delegating authority.

4.1.d. Accountability. -- The Director is accountable to the appointing authority for the operation of the training academy or program in compliance with the policies and regulations of the agency or department conducting the academy. The Director has the responsibility of keeping the Subcommittee informed regarding the training program. At the request of the Subcommittee or as needed, the Director shall appear before the Subcommittee, to discuss the training program.

4.2. Law Enforcement and Firearms Instructors.

4.2.a. Instructors are accountable initially to a first-level supervisor if one exists. If there are no first-level supervisors, instructors are accountable to the Director.

4.3. The provisions of this section are applicable to instructors in a basic training academy, annual in-service or biennial in-service training programs.

§149-2-5. Instructor Certification.

5.1. Law Enforcement Level 1 Instructor Certification.

5.1.a. Standards. -- All law enforcement level 1 instructors' certifications are valid for four (4) years if the following standards are met:

5.1.a.1. Current certification as a law enforcement officer in the State of West Virginia if applicable;

5.1.a.2. A high school diploma or its equivalent;

5.1.a.3. Three (3) years of experience as a police officer or direct work experience in the occupation or area in which certification is desired;

5.1.a.4. A minimum of sixteen (16) hours of verified training has been completed in each academic subject area within the five (5) years preceding the application for which certification is desired; provided that certain training may require additional hours as required by the Subcommittee.

5.1.a.5. Forty (40) hours of instructor development training approved by the Subcommittee. The course content shall include topic areas such as communication, psychology of learning, techniques of instruction, use of instructional aids, preparation and use of lesson plans, and preparation and administration of tests; and,

5.1.a.6. Written recommendation may be required from the applicant's chief or sheriff, or if a civilian, from a sheriff or chief who knows the applicant's teaching abilities.

5.1.b. Maintenance Requirements. -- In order to keep their certifications active, certified law enforcement level 1 instructors shall:

5.1.b.1. Instruct at least eight (8) hours in a basic training program or a Subcommittee certified in-service program every twenty-four (24) months from the date of their original certifications; or,

5.1.b.2. Attend, at a minimum, eight (8) hours on teaching updates or additional training in subject areas in which they are certified to instruct, every twenty-four (24) months of the original level 1 instructor certification.

5.1.c. Inactive Instructor Status. -- Level 1 instructors placed on inactive status by the Subcommittee must, within twenty-four (24) months of such placement, attend an eight (8) hour approved program in any inactive subject area; or teach eight (8) hours in a Subcommittee approved program in any inactive subject area under the direct supervision of an active, certified instructor. The Subcommittee shall rescind the level 1 instructor certification for failure to obtain or perform one (1) of the above in the time periods described.

5.2. Firearms Level 1 Instructor Certification.

5.2.a. Standards. -- Firearms level 1 instructors, in addition to qualifications required for law enforcement instructors set forth in Subsection 149-2-5.1 of this rule, shall:

5.2.a.1. Have experience in the use, care and maintenance of a firearm; and,

5.2.a.2. Complete a handgun firearms instructor school, of not less than forty (40) hours, approved by the Subcommittee.

5.2.b. Maintenance of Certification. -- In order to keep their certifications active, level 1 firearms instructors shall:

5.2.b.1. Instruct at least a two (2) hour block of firearms instruction in a department or committee recognized firearms certification program, either in a firearms associated classroom presentation or actually on the firearms range, every twenty-four (24) months from the date of their original level 1 instructor certifications; or,

5.2.b.2. Attend, at a minimum, a four (4) hour program on teaching updates or additional training in subject areas in which they are certified to instruct within twenty-four (24) months of original level 1 instructor certification date.

5.c. Inactive Instructor Status. -- Level 1 firearms instructors placed on inactive status by the Subcommittee shall within twenty-four (24) months of such placement, attend an eight (8) hour approved firearms training program or teach in a department recognized firearms program under the direct supervision of an active firearms instructor. The Subcommittee shall rescind the level 1 instructor certification for failure to obtain or perform one of the above in the time periods described.

5.3. Law Enforcement Level 2 Instructor Certification

5.3.a. Standards. -- All law enforcement level 2 instructors' certifications are valid for four (4) years if the following standards are met:

5.3.a.1. Current certification as a law enforcement officer in the State of West Virginia;

5.3.a.2. A high school diploma or its equivalent;

5.3.a.3. Seven (7) years of experience as a certified police officer;

5.3.a.4. Four (4) years of experience as a level 1 instructor within the previous five (5) years;

5.3.a.5. Successful completion of an approved instructor/trainer course in the subject matter requested within the previous five (5) years;

5.3.a.6. Level 2 instructor applicants must appear in person before the Subcommittee for approval.

5.3.b. Maintenance Requirements. -- In order to keep their certifications active, certified law enforcement level 2 instructors shall instruct at least eight (8) hours in a Subcommittee certified instructor level program every twenty-four (24) months from the date of their original certifications.

5.3.c. Inactive Instructor Status. -- Level 2 instructors placed on inactive status by the

Subcommittee must, within twenty-four (24) months of such placement, teach eight (8) hours in a Subcommittee approved instructor program in any inactive subject area under the direct supervision of an active, certified level 2 instructor.

5.4. Waiver of Standards for Certain Individuals.

5.4.a. Licensed members of the West Virginia State Bar, the medical profession and other similar professions; high school, community or junior college, college and university faculty members; certified emergency medical care or advanced first aid instructors; and employees of United States governmental agencies; or of state or local agencies which have police regulatory power and whose training assignments are of such short duration as to make certification impractical, shall apply to the Subcommittee for an exemption of the level 1 instructor certification process.

5.4.b. The Subcommittee, may waive any of the requirements of this section if it finds a person, although not meeting all of the eligibility requirements, is otherwise qualified to be an instructor.

5.5. Validity of Certification. -- Law enforcement instructor certification is valid for a period of forty-eight (48) months from the date of approval in each area of expertise or firearm related area of expertise for instructors who have not had a revocation related action taken against their law enforcement instructor certification as set forth in Subsection §149-2-5.6 of this Rule or their certification as a law enforcement officer as set forth in Section §149-2-16 of this Rule has not been suspended or revoked.

5.6. Revocation. -- The Subcommittee may revoke an instructor's certification:

5.6.a. When an instructor is found to be no longer qualified;

5.6.b. When an instructor is separated from employment, as defined in section §149-2-17, Subdivisions 17.c, 17.d, or 17.e. of this rule.

5.6.c. When a recommendation to revoke certification is made by the director of a training program approved by the Subcommittee, or by the instructor's employer for failure to provide adequate instruction; or,

5.6.d. For falsified or omitted information on any necessary paperwork required by the Subcommittee.

5.7. The provisions of this section are applicable to level 1 and level 2 instructors in all Subcommittee approved training.

§149-2-6. Training Academy Policies.

6.1. Attendance. -- ~~An officer~~ Trainees shall attend all classes and class functions, including all items listed in the course curriculum, unless excused by the Director. Absences may be excused for illness or injury of the officer or for other causes approved by the Director. An unexcused absence constitutes grounds for dismissal. Work missed while absent shall be made up.

6.2. Scholastic Grades. -- The minimum passing grade on an examination is seventy-five percent (75%) and ~~an officer~~ a trainee shall maintain an academic average of seventy-five percent (75%) for graduation and certification. ~~Students~~ Trainees failing to obtain 75% on an examination may be allowed to retake the examination within five (5) days. In the event the trainee passes the make-up examination, he or she shall be retained in the training program with the understanding that his or her academic standing shall reflect the score obtained on the original examination. The scores of the original

examination and the make-up examination will be recorded on the ~~individual's~~ trainee's class record. Provided that ~~students~~ trainees will be allowed to retake a maximum of two (2) separate failed examinations during the course of the program. Any ~~student~~ trainee failing to pass after the second examination shall be dismissed as a scholastic failure.

~~6.2-a~~ 6.3. Skills Training -- ~~Students~~ Trainees will be given three (3) attempts to successfully complete all skills examinations pursuant to criteria approved by the Director of Training. Any ~~student~~ trainee failing to pass any skill examination after three attempts shall be dismissed as a scholastic failure.

6.4. Reentry. -- Reentry to the basic training for trainees who have withdrawn from a program because of an injury, extended illness, hardship or circumstances beyond their control is at the discretion of the Director. If denied reentry by the Director, the agency head, or the trainee, may appeal this denial to the Subcommittee.

6.5. Dismissal. -- The Director may dismiss a trainee for disobedience of staff orders, a flagrant or repeated violation of academy regulations, or misconduct.

6.5.a. Written notice will be provided by the Director to the head of the agency employing the dismissed ~~officer~~ trainee. A copy of the written notice will also be provided to the affected ~~officer~~ trainee and to the ~~Executive Director of the Committee~~ Subcommittee.

6.5.b. Any ~~person~~ trainee dismissed for reasons other than scholastic failure may appeal the dismissal. The initial appeal shall be to the head of the agency or department conducting the training. If this initial appeal is denied the trainee may appeal to the Subcommittee. An appeal of the decision made by the Subcommittee will be as set forth in §149-2-20 of this rule. necessary, a subsequent appeal shall be in accordance with the Administrative Procedures Act. W. Va. Code §29A-3-1 et. seq.

6.6. Salary. -- The trainee's salary for a forty-hour work week while undergoing training and his or her travel costs to and from the training site are the responsibility of the employing agency. Cost of training uniforms, fatigues and other personal equipment required for training shall be paid for by the employing agency.

6.7. Costs.

6.7.a. Cost for food, lodging and training materials for trainees attending a residential entry-level training academy may be paid by the Committee.

6.7.b. The Subcommittee, upon submission of a grant application, will review other costs relating to the operation and presentation of entry-level or in-service training programs.

§149-2-7. Academy Training Curriculum.

7.1. The objective of the curriculum is to provide all law enforcement officers with a minimum of eight hundred (800) hours of ~~basic~~ entry level training for certification.

7.2. It is the responsibility of the employing agency to provide training in those areas not included in the core curriculum. Local ordinances and department policies and procedures are examples of training that shall be provided by each employing agency.

7.3. The core curriculum shall be amended, as necessary, to meet the needs of the largest possible number of law enforcement agencies. Changes in the core curriculum require approval of the Committee upon recommendation of the Subcommittee. Recommendations for change shall be made in writing to the Subcommittee.

§149-2-8. Academy Entry Standards.

8.1. Entry standards include, but are not limited to, an applicant's demonstration of their ability to perform, or be trained to perform, all of the essential tasks and functions contained in the job description and the ability to meet the required medical and physical ability standards as set forth in this Rule.

8.1.a. This Rule will insure that persons appointed to positions as police officers, in agencies subject to this rule, are medically fit to undergo the training requirements for the position, and to perform their essential tasks, at a minimal risk to themselves, their fellow officers, and the public.

8.1.b. All requests for reasonable accommodation may be reviewed by a panel of at least four (4) people appointed by the Chairman of the Subcommittee. The panel shall use the job description and medical standards for entry into a basic entry-level training program as a basis of their decision on the request for reasonable accommodation.

8.2. Academy Application Requirements.

8.2.a. All newly hired and uncertified, by the Committee, law enforcement officers, ~~after receiving written notification from their employer,~~ shall apply for admission to an entry-level training program by submission of a completed and medically acceptable academy application packet within ninety (90) calendar days of their date of employment. Their employer should provide written notice to the Academy or the Subcommittee of this officer's employment, to include personal identification information, date of employment and information as to whether the individual has worked as a law enforcement officer before as close as possible to the decision to employ the individual.

8.2.a.1. A completed application consists of an application sheet; a true and accurate medical history statement; a complete medical examination report; and federal and state fingerprint cards or other paperwork approved by the Subcommittee on recommendation of the Director.

8.2.b. Any officer failing to file or have filed on his or her behalf a completed application within the ninety (90)-calendar day period shall be immediately terminated as a law enforcement officer. Any officer terminated may apply to the Subcommittee as a private citizen for training and certification at his or her own expenses as provided for in W. Va. Code §30-29-5(f) or this Rule.

8.2.c. An applicant may file or have filed on his or her behalf a request for an extension of the ninety (90)-calendar day period. This request shall be filed prior to the end of the 90-calendar day period. The request is to be filed with the Subcommittee.

8.3. Entry Level Law Enforcement Officer Job Description: Under regular supervision, an entry-level officer performs basic police services in accordance with the mission, goals and objectives of the employing agency and in compliance with governing federal, state, and local laws. At the completion of an entry level training program, an officer should be able to perform the following essential functions: established by the Subcommittee of a law enforcement officer. These functions may be set based on job task analysis evaluations, law enforcement officer performance research and the experience of the Subcommittee members and law enforcement professionals and administrators. The functions so established by the Subcommittee will available for review from the Subcommittee and will be posted on the website of the West Virginia Division of Justice and Community Services' on the page supporting the Subcommittee.

~~8.3.a. Arrest and Detain Persons. In arrest and detention, an officer may:~~

~~8.3.a.1. Advise persons of constitutional rights (Miranda Warning);~~

- ~~8.3.a.2. Arrest persons with a warrant;~~
- ~~8.3.a.3. Arrest persons without a warrant (non-traffic);~~
- ~~8.3.a.4. Conduct temporary detention ("stop and frisk") of suspicious persons;~~
- ~~8.3.a.5. Execute felony motor vehicle stop;~~
- ~~8.3.a.6. Investigate a suspicious vehicle;~~
- ~~8.3.a.7. Plan how to make and execute arrests;~~
- ~~8.3.a.8. Prepare information and complaint for the filing of charges following an arrest (criminal investigation);~~
- ~~8.3.a.9. Review warrants for completeness and accuracy;~~
- ~~8.3.a.10. Obtain arrest warrants and making proper returns;~~
- ~~8.3.a.11. Check for warrants on persons through NCIC.~~
- ~~8.3.b. Protect Crime Scene and Collect Evidence and Information. In protecting the crime scene and collecting evidence and information, an officer may:~~
- ~~8.3.b.1. Collect evidence and personal property from a crime scene;~~
- ~~8.3.b.2. Diagram crime scenes;~~
- ~~8.3.b.3. Document the chain of custody for evidence;~~
- ~~8.3.b.4. Dust and lift latent fingerprints;~~
- ~~8.3.b.5. Examine evidence and personal property from crime scenes to determine their importance;~~
- ~~8.3.b.6. Package evidence or personal property;~~
- ~~8.3.b.7. Use a camera;~~
- ~~8.3.b.8. Protect a crime scene until specialized or back-up assistance arrives;~~
- ~~8.3.b.9. Record location of physical evidence and fingerprints at the scene;~~
- ~~8.3.b.10. Secure the crime scene;~~
- ~~8.3.b.11. Initial, mark, and label evidence;~~
- ~~8.3.b.12. Determine the area of the crime scene;~~
- ~~8.3.b.13. Search crime scenes for physical evidence;~~
- ~~8.3.b.14. Search dead bodies for personal property and evidence;~~

~~8.3.b.15. Recover and inventory stolen property; and~~

~~8.3.b.16. Tag evidence and confiscated property.~~

~~8.3.c. Enforce Driving Under the Influence (DUI)/Traffic Laws. — In enforcement of DUI/Traffic laws, an officer may:~~

~~8.3.c.1. Observe persons to recognize signs of drug or alcohol intoxication;~~

~~8.3.c.2. Make custodial traffic arrests (e.g., DUI);~~

~~8.3.c.3. Administer standardized field sobriety tests;~~

~~8.3.c.4. Fill out a search warrant application to obtain DUI related blood or urine sample;~~

~~8.3.c.5. Arrange for obtaining a blood or urine sample for blood alcohol content (BAC);~~

~~8.3.c.6. Arrest DUI suspects;~~

~~8.3.c.7. Determine probable cause to execute a DUI stop;~~

~~8.3.c.8. Operate a secondary chemical test instrument to test blood alcohol content;~~

~~8.3.c.9. Investigate hit and run violations;~~

~~8.3.c.10. Investigate a traffic crash scene to identify points of impact;~~

~~8.3.c.11. Record statements of witnesses to traffic crashes;~~

~~8.3.c.12. Safely execute a vehicle stop and arrest, cite or warn occupants~~

~~8.3.d. Operate Patrol Vehicle. — In operating a patrol vehicle, an officer may:~~

~~8.3.d.1. Engage in emergency driving in a congested area;~~

~~8.3.d.2. Engage in high-speed pursuit or response driving off road;~~

~~8.3.d.3. Engage in high-speed pursuit or response driving on an open road;~~

~~8.3.d.4. Respond to crime in progress calls; and~~

~~8.3.d.5. Operate portable and car radio equipment.~~

~~8.3.e. Conduct Search and Seizure. — In conducting search and seizure, an officer may:~~

~~8.3.e.1. Obtain warrants and make proper returns;~~

~~8.3.e.2. Plan, organize, and conduct raids;~~

~~8.3.e.3. Observe a person's body language to assess intentions and attitudes;~~

- ~~8.3.e.4. Conduct a field search of arrested persons;~~
- ~~8.3.e.5. Conduct a frisk or pat down;~~
- ~~8.3.e.6. Search persons in accordance with a court order (e.g., blood sample, hair sample);~~
- ~~8.3.e.7. Search premises or property incident to an arrest;~~
- ~~8.3.e.8. Search premises or property in hot pursuit or emergency situations;~~
- ~~8.3.e.9. Search premises or property with consent;~~
- ~~8.3.e.10. Search premises or property with a warrant;~~
- ~~8.3.e.11. Seize contraband; and~~
- ~~8.3.e.12. Search for a person in a darkened building or environment.~~
- ~~8.3.f. Use Physical Force to Control Persons. In using force to control persons, an officer may:~~
 - ~~8.3.f.1. Confront, in a riot formation, groups of agitated people;~~
 - ~~8.3.f.2. Control hostile groups (e.g., demonstrators, rioters);~~
 - ~~8.3.f.3. Use holds or devices to control or take a suspect down;~~
 - ~~8.3.f.4. Physically subdue an attacking person;~~
 - ~~8.3.f.5. Use weaponless defense tactics;~~
 - ~~8.3.f.6. Subdue a person resisting arrest;~~
 - ~~8.3.f.7. Use body pressure points to control a person;~~
 - ~~8.3.f.8. Disarm a violent armed suspect;~~
 - ~~8.3.f.9. Remove a person out of vehicle who is resisting arrest;~~
 - ~~8.3.f.10. Strike a person with a handheld impact weapon;~~
 - ~~8.3.f.11. Deploy a secondary chemical weapon;~~
 - ~~8.3.f.12. Use submission holds to control a person;~~
 - ~~8.3.f.13. Locate and observe crowd agitators;~~
 - ~~8.3.f.14. Patrol riot stricken or civil disturbance areas;~~
 - ~~8.3.f.15. Physically restrain a crowd;~~
 - ~~8.3.f.16. Use body language to project control and influence a situation;~~

~~8.3.f.17. Use voice commands to project control and direct actions; and~~

~~8.3.f.18. Hold a flashlight in one hand while performing various police duties.~~

~~8.3.g. Use Deadly Weapons. — In using deadly weapons, an officer may:~~

~~8.3.g.1. Clean and inspect weapons;~~

~~8.3.g.2. Discharge a firearm at a vehicle;~~

~~8.3.g.3. Discharge a firearm in low light conditions;~~

~~8.3.g.4. Discharge a firearm at a person;~~

~~8.3.g.5. Draw a weapon to protect himself or herself or a third party;~~

~~8.3.g.6. Participate in firearms training;~~

~~8.3.g.7. Secure a firearm when off duty (e.g., home);~~

~~8.3.g.8. Fire a weapon in a dark environment with a flashlight in one hand;~~

~~8.3.g.9. Fire a weapon in low light combat;~~

~~8.3.g.10. Fire a weapon in daytime combat;~~

~~8.3.g.11. Carry a firearm when off duty; and~~

~~8.3.g.12. Discharge a weapon at an animal.~~

~~8.3.h. Provide Emergency Assistance. — In providing emergency assistance, an officer may:~~

~~8.3.h.1. Determine existence of hazardous materials at the scene of a wreck (e.g., train, vehicle, etc.);~~

~~8.3.h.2. Evacuate persons from dangerous areas (e.g., fire, chemical accident, etc.);~~

~~8.3.h.3. Secure accident and disaster scenes;~~

~~8.3.h.4. Administer cardio-pulmonary resuscitation (CPR);~~

~~8.3.h.5. Administer mouth-to-mouth resuscitation;~~

~~8.3.h.6. Apply basic first aid to control bleeding;~~

~~8.3.h.7. Apply basic first aid to treat for amputations;~~

~~8.3.h.8. Apply basic first aid to treat for choking (e.g., Heimlich Method);~~

~~8.3.h.9. Talk with a person attempting suicide to get him or her to stop or delay the attempt.~~

~~8.3.h.10. Use protective gear to prevent contact with infectious diseases;~~

- ~~8.3.h.11. Take a mentally ill person into custody for his or her own protection;~~
- ~~8.3.h.12. Mediate family disputes;~~
- ~~8.3.h.13. Place children in protective custody (e.g., child abuse).~~
- ~~8.3.i. Conduct Initial and Follow Up Investigation of Various Crimes and Events. In conducting such investigation, an officer may:~~
 - ~~8.3.i.1. Conduct complete criminal investigations;~~
 - ~~8.3.i.2. Respond to and conduct preliminary investigation of events including but not limited to criminal activity, traffic crashes and disasters.~~
 - ~~8.3.i.3. Conduct on-the-scene suspect identifications (e.g., show up or one on one suspect identification);~~
 - ~~8.3.i.4. Conduct stationary surveillance of individuals or locations;~~
 - ~~8.3.i.5. Determine whether incidents are criminal or civil matters;~~
 - ~~8.3.i.6. Determine whether recovered property is linked with a previous crime; and~~
 - ~~8.3.i.7. Exchange necessary information with other law enforcement officials (including intelligence information);~~
- ~~8.3.j. Write and Read Reports and Other Documents. In writing and reading reports and other documents, an officer may:~~
 - ~~8.3.j.1. Complete an initial offense report;~~
 - ~~8.3.j.2. Complete arrest reports;~~
 - ~~8.3.j.3. Complete a criminal investigation report of felonies; and~~
 - ~~8.3.j.4. Record confessions in writing.~~
- ~~8.3.k. Present Testimony. In presenting testimony, an officer may:~~
 - ~~8.3.k.1. Present evidence in legal proceedings;~~
 - ~~8.3.k.2. Review reports and notes prior to court testimony;~~
 - ~~8.3.k.3. Testify at evidence suppression hearings;~~
 - ~~8.3.k.4. Testify at probable cause preliminary hearings;~~
 - ~~8.3.k.5. Testify before grand juries;~~
 - ~~8.3.k.6. Testify in criminal trials; and~~
 - ~~8.3.k.7. Testify in administrative hearings (e.g., Division of Motor Vehicles' (DMV) driver's~~

license revocation,):

~~8.3.l. Transport Persons in Custody. — In transporting persons in custody, an officer may:~~

~~8.3.l.1. Operate a vehicle to transport prisoners;~~

~~8.3.l.2. Properly place and secure persons in custody in a vehicle and~~

~~8.3.l.3. Search a vehicle for weapons and contraband (e.g., before and after prisoner transport).~~

~~8.3.m. Conduct Interviews and Interrogations. — In conducting interviews and interrogations, an officer may:~~

~~8.3.m.1. Interrogate adult suspects;~~

~~8.3.m.2. Interview complainants, witnesses, etc.;~~

~~8.3.m.3. Interview victims of sex crimes.~~

~~8.3.m.4. Interrogate a suspect or witness with use of polygraph results;~~

~~8.3.m.5. Interview informants;~~

~~8.3.m.6. Take statements of witnesses; and~~

~~8.3.m.7. Interrogate juvenile suspects.~~

~~8.3.n. Conduct Traffic Crash Investigations. — In conducting traffic crash investigations, an officer may:~~

~~8.3.n.1. Collect physical evidence from a crash scene;~~

~~8.3.n.2. Complete the standard Division of Highways traffic crash report form;~~

~~8.3.n.3. Determine contributing factors to a crash;~~

~~8.3.n.4. Diagram crash scenes;~~

~~8.3.n.5. Protect traffic crash physical evidence for collection; and~~

~~8.3.n.6. Take precautions to prevent additional crashes at a crash scene.~~

~~8.4. Equipment Used by Law Enforcement Officers. — In performing the essential functions of the job, an officer may use the following:~~

~~8.4.a. A preliminary breath test;~~

~~8.4.b. An automobile;~~

~~8.4.c. A impact weapon;~~

- ~~8.4.d. Body armor;~~
- ~~8.4.e. A secondary chemical agent;~~
- ~~8.4.f. A first aid kit;~~
- ~~8.4.g. Road flares;~~
- ~~8.4.h. A flashlight;~~
- ~~8.4.i. Flexi-cuffs;~~
- ~~8.4.j. Handcuffs;~~
- ~~8.4.k. A handheld police radio;~~
- ~~8.4.l. A police car radio;~~
- ~~8.4.m. A public address system;~~
- ~~8.4.n. A speed measuring device;~~
- ~~8.4.o. A handgun;~~
- ~~8.4.p. A shotgun;~~
- ~~8.4.q. Lights and sirens;~~
- ~~8.4.r. Rubber gloves;~~
- ~~8.4.s. Ammunition and ammunition magazines; and~~
- ~~8.4.t. Weapon cleaning equipment.~~

8.54. Medical Standards. -- All applicants for entry into an entry-level training program shall submit to a medical examination by a licensed physician chosen by and at the expense of the employing agency. The applicants shall complete a comprehensive medical history questionnaire, as well as submit to a medical examination which shall include the following minimum requirements: A medical history; a physician's medical examination; laboratory tests; blood chemistry (~~Chem-20 or equivalent~~); Complete Blood Count (CBC); urinalysis (~~with dipstick~~); Tuberculosis (~~Mantoux~~); Electrocardiogram (ECG) (~~resting~~); and drug screening (DOH-5 or 8-10 panel). The criteria as to type and method of evaluation of any required laboratory tests will be established by the Subcommittee.

8.54.a. The medical examination shall consist of criteria aimed at identifying conditions that may potentially exclude an applicant from entry into a basic entry-level training program.

8.54.b. Applicants employed by a law enforcement agency that are required to meet medical requirements for firefighters (National Fire Protection Standards 1582 or its most current equivalent) as a condition of employment will use that medical standard for entry into an entry-level training program (W.Va. Code §8-22-16).

8.54.c. The Medical History Statement and Medical Examination Report are valid for a one-year

period, to be measured from the date of the examining physician's signature on the State of Condition page of the Medical Examination Report.

8.54.d. The examining physician shall note if the applicant has any of the following medical and physical conditions established by the Subcommittee which may interfere with the applicant's ability to perform the essential functions established by the Subcommittee for an entry level law enforcement officer. The conditions established by the Subcommittee will be available for review and will be posted on the website of the West Virginia Division of Justice and Community Services. These conditions may be cause to exclude an applicant from consideration for acceptance except where specifically noted in the listed conditions.

~~8.5.d.1. Eyes and Vision. With regard to eyes and vision, the examining physician shall note any of the following conditions:~~

~~8.5.d.1.A. Visual Acuity. An applicant's uncorrected vision may be equal to but not worse than 20/100 in the weaker eye, and shall be correctable to better than, or equal to, 20/30 (Snellen) in each eye. Means of correction must be worn on the job and the means of correction shall not interfere with proper fitting of a facial mask, e.g., gas mask, riot helmet or air or blood borne pathogen masks, etc.~~

~~8.5.d.1.B. Far visual acuity shall be at least 20/30 binocular with contact lenses or eyeglasses. Far visual acuity uncorrected shall be at least 20/100 binocular for wearers of hard contacts or eyeglasses. Successful long term soft contact lens wearers (six months without a problem) are not subject to the uncorrected standard.~~

~~8.5.d.1.C. Ophthalmological procedures such as radial keratotomy, repair of retinal detachment. Sufficient time (minimum, six months) shall have passed to allow stabilization of visual acuity and to ensure that there are no post surgical complications.~~

~~8.5.d.1.D. Visual Acuity. Color Vision: The applicant shall pass a "controlled color discrimination test", such as, United States Department of Transportation Color Vision Examination.~~

~~8.5.d.1.E. Visual Acuity. Depth Perception: An applicant's depth perception should be sufficient to demonstrate normal stereo depth perception with or without correction to the standard: 80 ARC seconds.~~

~~8.5.d.1.F. The examining physician shall note any other conditions which may interfere with the applicant's ability to perform the essential tasks listed in the job description of entry level law enforcement officer.~~

~~8.5.d.2. Ears and Hearing. With regard to ears and hearing, the examining physician shall note any of the following conditions:~~

~~8.5.d.2.A. Hearing Acuity. Using an audiometer, the applicant should have less than average loss of 25 or more decibels at the 500, 1000, 2000, and 3000 Hertz (Hz) levels in either ear with no single frequency loss in excess of 40.~~

~~8.5.d.2.B. Acute Otitis Media, Otitis Externa, and Mastoiditis. If the applicant meets hearing acuity guidelines, then these conditions are non-disqualifying.~~

~~8.5.d.2.C. Any Inner /Middle/Outer Ear Disorder Affecting Equilibrium, e.g., Meniere's Disease. If the applicant has historically had episodes of vertigo, the applicant may require further evaluation.~~

~~8.5.d.3. Nose, Throat, and Mouth. With regard to the nose, throat and mouth, the examining physician shall note any of the following conditions:~~

~~8.5.d.3.A. Loss of sense of smell;~~

~~8.5.d.3.B. Aphonia, speech loss or speech defects; and~~

~~8.5.d.3.C. Abnormalities of the nose, throat, or mouth, except as described in subparagraphs 8.5.d.3.A. and 8.5.d.3.B. If the abnormality does not interfere with the applicant's breathing, or the proper fitting of a gas mask, the condition is non-excludable.~~

~~8.5.d.4. Peripheral Vascular System. With regard to the peripheral vascular system, the examining physician shall note any of the following conditions:~~

~~8.5.d.4.A. Hypertension. An applicant's resting blood pressure should be less than, or equal to, 140 mmHg systolic and 90 mmHg diastolic on three successive readings. If the applicant has controlled hypertension not exceeding this standard and is on medication with side effect profiles which do not interfere with the performance of his or her duty as an entry level law enforcement officer, the condition may not cause the applicant to be excluded. The applicant shall have a functional and therapeutic cardiac classification no greater than 1A, i.e., Functional Capacity I: Applicants with cardiac disease and no limitation of physical activity. Ordinary physical activity does not cause discomfort. Applicants in this class do not have symptoms of cardiac insufficiency, nor do they experience anginal pain. Therapeutic Classification A: Applicants with cardiac disease whose physical activity need not be restricted.~~

~~8.5.d.4.B. Peripheral Vascular Abnormality. Any condition that is severe or symptomatic may cause the applicant to be excluded, e.g., arterial insufficiency, deep or superficial vein thrombophlebitis, or Raynaud's Disease.~~

~~8.5.d.5. Heart and Cardiovascular System. With regard to the heart and cardiovascular system, the examining physician shall note any condition that may interfere with the applicant's ability to perform the duties attendant to the position of a basic entry level officer as well as any of the following conditions. The following conditions may or may not exclude an applicant from consideration depending on their effect in performance of the job duties as set forth in this section.~~

~~8.5.d.5.A. Congenital Heart Disease. If the applicant's functional work capacity is unimpaired, then the condition may not cause the applicant to be excluded.~~

~~8.5.d.5.B. Valvular Heart Disease. Includes significant valvular insufficiency, significant septal defects (any valve), and prolapsing mitral valve (symptomatic).~~

~~8.5.d.5.C. Coronary Artery Disease.~~

~~8.5.d.5.D. ECG Abnormalities (if associated with organic heart disease). Including but not limited to: WPW Syndrome, ST Depression, Partial or Complete Left Bundle Branch Blocks, 3 Degree A-V Block, Mobitz Type II A-V Blocks, Sinoatrial Block or Sick Sinus Syndrome, Ventricular Extrasystole (frequent 20/minute with exercise, 10 minutes without exercise), Ventricular Tachycardia, Atrial Fibrillation or Flutter, Episodic Supraventricular Tachycardia or Consistent Supraventricular Tachycardia at Rest or Persistent After Exercise even if Asymptomatic.~~

~~8.5.d.5.E. Angina;~~

- ~~8.5.d.5.F. Congestive Heart Failure;~~
- ~~8.5.d.5.G. Cardiomyopathy; and~~
- ~~8.5.d.5.H. Pericarditis, Endocarditis, and Myocarditis.~~
- ~~8.5.d.6. Respiratory System. With regard to the respiratory system, the examining physician shall note any of the following conditions:~~
- ~~8.5.d.6.A. Any chronically disabling conditions that would interfere with the applicant's ability to perform essential job tasks;~~
- ~~8.5.d.6.B. Infectious or potentially infectious Pulmonary Tuberculosis;~~
- ~~8.5.d.6.C. Chronic Bronchitis;~~
- ~~8.5.d.6.D. Chronic Obstructive Pulmonary Disease;~~
- ~~8.5.d.6.E. Emphysema;~~
- ~~8.5.d.6.F. Restrictive Lung Diseases;~~
- ~~8.5.d.6.G. Bronchiectasis and Pneumothorax (current or repeated history);~~
- ~~8.5.d.6.H. Pneumonectomy;~~
- ~~8.5.d.6.I. Acute Mycotic diseases — Including but not limited to coccidioidomycosis and histoplasmosis;~~
- ~~8.5.d.6.J. Acute Pleurisy;~~
- ~~8.5.d.6.K. Malignant Disease — Any condition that may interfere with the applicant's ability to perform the duties attendant to the position of a basic entry level officer shall be noted.~~
- ~~8.5.d.7. Gastrointestinal System. With regard to the gastrointestinal system, the examining physician shall note any of the following conditions. If any of the following or other G-I condition is controlled, then they may not cause the applicant to be excluded.~~
- ~~8.5.d.7.A. Colitis — Including but not limited to Crohn's Disease, Ulcerative Colitis, Irritable Bowel Syndrome (symptomatic or needing medication), Bacterial Colitis;~~
- ~~8.5.d.7.B. Diverticulitis;~~
- ~~8.5.d.7.C. Esophageal disorders — Including, but not limited to, Esophageal Stricture, Lower Esophageal Ring and Esophageal Spasm.~~
- ~~8.5.d.7.D. Pancreatitis;~~
- ~~8.5.d.7.E. Gall Bladder disorders;~~
- ~~8.5.d.7.F. Active Peptic Ulcers;~~
- ~~8.5.d.7.G. Symptomatic Inguinal, Umbilical, Ventral, Femoral, or Incisional Hernias;~~

~~8.5.d.7.H. Malignant Disease of the Liver, Gall Bladder, Pancreas, Esophagus, Stomach, Small or Large Bowel, Rectum, or Anus;~~

~~8.5.d.7.I. Gastrointestinal Bleeding;~~

~~8.5.d.7.J. Active or Chronic Hepatitis;~~

~~8.5.d.7.K. Cirrhosis of the Liver; and~~

~~8.5.d.7.L. Motility Disorders, e.g., Scleroderma.~~

~~8.5.d.8. Genitourinary System. With regard to the genitourinary system, the examining physician shall note any conditions that may interfere with the applicant's ability to perform essential job tasks listed in this section as well as any of the following conditions;~~

~~8.5.d.8.A. Pregnancy;~~

~~8.5.d.8.B. Nephrectomy—If an applicant possesses this condition with normal natural renal function, then the condition is non-disqualifying;~~

~~8.5.d.8.C. Acute Nephritis;~~

~~8.5.d.8.D. Nephrotic Syndrome;~~

~~8.5.d.8.E. Acute Renal or Urinary Calculi;~~

~~8.5.d.8.F. Renal Transplant;~~

~~8.5.d.8.G. Renal Failure;~~

~~8.5.d.8.H. Hydrocele and Varicocele (Symptomatic);~~

~~8.5.d.8.I. Malignant Diseases of Bladder, Kidney, Ureter, Cervix, Ovaries, Breasts, Prostate, etc.;~~

~~8.5.d.8.J. Active Venereal Diseases;~~

~~8.5.d.8.K. Urinary Tract Infection;~~

~~8.5.d.8.L. Polycystic Kidney Disease;~~

~~8.5.d.8.M. Pelvic Inflammatory Disorders;~~

~~8.5.d.8.N. Endometriosis;~~

~~8.5.d.8.O. Inflammatory Disorders, e.g., prostatitis, orchitis, epididymitis; and~~

~~8.5.d.8.P. Scleroderma.~~

~~8.5.d.9. Endocrine and Metabolic Systems. With regard to the endocrine and metabolic systems, the examining physician shall note any of the following conditions:~~

- ~~8.5.d.9.A. Uncontrolled Thyroid Disease;~~
- ~~8.5.d.9.B. Diabetes Mellitus — Potential excludability requires a case by case assessment by a physician designated by the Law Enforcement Training Subcommittee as to the control of diabetes and presence and severity of symptoms and complications;~~
- ~~8.5.d.9.C. Adrenal Dysfunction — Including but not limited to Addison's Disease and Cushing's Disease;~~
- ~~8.5.d.9.D. Insulin Reactions; and~~
- ~~8.5.d.9.E. Untreated Thyroid Malignancy.~~
- ~~8.5.d.10. Musculoskeletal System. — With regard to the musculoskeletal system, the examining physician shall note any condition that may interfere with the applicant's ability to perform essential job tasks listed in this section as well as any of the following conditions:~~
- ~~8.5.d.10.A. Disorders that limit motor function;~~
- ~~8.5.d.10.B. Cervical Spine or Lumbar Sacral Fusion;~~
- ~~8.5.d.10.C. Degenerative Cervical or Lumbar Disc Disease (if symptomatic);~~
- ~~8.5.d.10.D. Extremity amputation;~~
- ~~8.5.d.10.E. Osteomyelitis;~~
- ~~8.5.d.10.F. Muscular Dystrophy;~~
- ~~8.5.d.10.G. Loss in the motor ability from tendon or nerve injury or surgery — In an area relevant to the applicant's performing the essential tasks of the job;~~
- ~~8.5.d.10.H. Arthritis — If the applicant possesses this condition with no functional impairment, then the condition is non-excludable;~~
- ~~8.5.d.10.I. Coordinated balance;~~
- ~~8.5.d.10.J. Symptomatic Herniated Disc; and~~
- ~~8.5.d.10.K. Spinal Deviations.~~
- ~~8.5.d.11. Hematopoietic and Lymphatic Systems. — With regard to the hematopoietic and lymphatic systems, the examining physician shall note any of the following conditions:~~
- ~~8.5.d.11.A. Hematopoietic disorders (including malignancies), e.g., SCD, thalassemia, G6PSD, etc.; and~~
- ~~8.5.d.11.B. Hemophilia.~~
- ~~8.5.d.12. Nervous System. — With regard to the nervous system, the examining physician shall note any condition that may interfere with the applicant's ability to perform essential job tasks listed in this section as well as any of the following conditions:~~

- ~~8.5.d.12.A. Seizure disorder (all types);~~
- ~~8.5.d.12.B. Cerebral Palsy;~~
- ~~8.5.d.12.C. Movement disorders, e.g., Parkinson's;~~
- ~~8.5.d.12.D. Cerebral Aneurysms;~~
- ~~8.5.d.12.E. Syncope;~~
- ~~8.5.d.12.F. Progressive Neurological Diseases Including but not limited to Multiple Sclerosis and Huntington's Chorea;~~
- ~~8.5.d.12.G. Peripheral Nerve Disorder Including but not limited to Polyneuritis, Mononeuritis, and Neurofibromatosis;~~
- ~~8.5.d.12.H. Narcolepsy;~~
- ~~8.5.d.12.I. Cerebral vascular accident; and~~
- ~~8.5.d.12.J. Central nervous system infections.~~

~~8.5.d.134.e. Any medical or physical condition listed in this Subsection of this Rule approved by the Subcommittee that requires further evaluation to determine the condition's impact upon the applicant's ability to perform the essential functions that an entry level law enforcement officer should be able to perform, shall be conducted at the applicant's expense.~~

8.65. Physical Ability Standards.

8.65.a. All applicants for basic entry-level training are required to perform at the 40th percentile (Cooper Institute of Aerobics Research, Single Standard Norm) of ability as a pass or fail screening for admission into an entry-level training program.

8.65.b. The battery of screening elements, based on the significant work of the Cooper Institute for Aerobics Research, indicates an applicant's ability to satisfactorily perform the essential job tasks of the entry-level law enforcement officer as listed in this rule. Standards for successful completion of ability screening tests, where otherwise not set by this Section, may be established by the Subcommittee.

8.65.c. The three (3) elements of the test battery are designed to confirm the physical ability to perform entry-level training and perform the essential tasks functions of the an entry-level law enforcement officer as listed in this Rule approved by the Subcommittee. They are not job task simulations, but rather are construct validation of the candidate's applicant's capacity to learn and perform essential physical tasks. Applicants shall be given two attempts to obtain the 40th percentile on each test element. The retest (e.g. second attempt to obtain the 40th percetile on an element of the test battery successfully) will be on different date, as set by the Director, to gain entry into the next available entry level training program. Each test element shall be passed before proceeding to the next test element. Any applicant unable to obtain the 40th percentile shall be invited to retry at the next available basic entry level training class. Applicants unable to attain the 40th percentile upon retest shall be placed in a non-law enforcement position until such time as the applicant can obtain the 40th percentiles on all elements of the test battery and enter an entry-level training program. An applicant who is waiting to retest must insure that their medical examination, and its associated tests, was completed within one year immediately preceding the date of the retest.

8.65.d. The physical ability tests shall consist of:

8.65.d.1. Sit-ups (Muscular Endurance) - The score is the number of bent-leg sit-ups performed in one (1) minute.

8.65.d.2. Push-ups (Absolute Strength) - The score is the number of conventional push-ups performed in one (1) minute. A conventional push-up is defined as an exercise performed in the prone position by raising and lowering the body with the straightening and bending of the arms, while keeping the back straight and supporting the body on the hands and toes. The push-ups will be scored by one of the following two standards:

8.65.d.2.A. The counter will place his or her fist on the floor with the nails of their fingers to the floor. If done this way, the applicant's chest must touch the fist for the push-up to be complete; or

8.65.d.2.B. Using a block of wood, dimensions of which shall be set by the Subcommittee, on which the counter may place his or her finger. If done this way, the applicant's chest must touch the counter's finger for the push-up to be complete.

8.65.d.3. One and one-half mile run (Cardiovascular Capacity) - The score is the elapsed time in minutes and seconds required by the applicant to complete the run.

8.65.e. Applicants who successfully completed all three (3) elements of the physical ability test may use the passage of this test for entry into the entry-level training program.

8.65.f. Applicants who successfully completed all three elements of the physical ability test, whose agencies withhold them from entry into the first scheduled entry-level training program, shall retake and successfully complete all three elements of the physical ability test for entry into the next available basic entry-level training program.

8.65.g. Failure of any applicant to participate in an assigned physical ability testing shall be recorded as failure of the physical ability test. Applicants who, as the result of extenuating circumstances, are unable to attend and participate in a scheduled physical ability testing shall advise the Director in writing prior to the test date requesting rescheduling and explaining in detail the extenuating circumstances.

§149-2-9. Annual In-Service Training Facilities.

9.1. Standards for annual in-service and biennial supervisory level training facilities are similar to those for entry-level training but are less rigid because of the short duration and narrower scope of the training programs. All in-service programs approved by the Subcommittee shall be conducted in adequate and proper facilities.

9.2. Classrooms.

9.2.a. The classroom used shall be large enough to comfortably accommodate the maximum number of trainees attending and shall be approved by the Subcommittee in advance of the starting date.

9.2.b. Artificial or day lighting shall provide good visibility under normal environmental conditions and shall permit the use of audio-visual training aids.

9.2.c. Adequate ventilation and seasonal temperature control shall be provided in the classroom.

9.2.d. Acoustics shall be adequate to enable the speaker to be heard from any place in the used area of the classroom. A public address system shall be provided if needed.

9.3. Classroom Amenities

9.3.a. Seating shall be of comfortable design and of sufficient size to accommodate adults.

9.3.b. Desks or tables shall have smooth tops and shall be of a size as to comfortably permit note taking by adult trainees.

9.3.c. Display surfaces shall be sufficient in size and positioned to permit adequate viewing by trainees seated in the rearmost used area of the classroom.

9.3.d. The classroom shall be equipped with a lectern of some type if necessary and sufficiently large enough to accommodate lecture materials.

9.3.e. Audio visual training aids required to conduct any part of the training program shall be on hand and operable when needed.

9.4. Restrooms. -- Separate restrooms for both sexes shall be available.

9.5. Parking. -- Adequate parking space shall be provided and be located within reasonable walking distance of the training location.

§149-2-10. Annual In-Service Training Curriculum.

10.1. Annual in-service training required by the Committee for continued certification shall consist of a minimum of sixteen (16) hours, exclusive of firearms qualification. A maximum of twenty-five percent (25%) of the training may be web-based provided that the training is pre-approved by the Subcommittee.

10.1.a. Certified law enforcement instructors may request from the Subcommittee that up to a maximum of eight (8) hours of annual in-service training credit be given for teaching in a Subcommittee approved annual in-service training course. This credit shall be requested on an hour for hour basis in even increments and shall only be applicable within that individual instructor's appropriate training period. This request for credit shall be made at the time the in-service training course application is presented to the Subcommittee for consideration.

10.2. It is the responsibility of each law enforcement agency to require, at a minimum, semi-annual firearms qualifications of all active members, one of which will be a low light firing for qualification. All qualifications shall be separated by a minimum period of three (3) months.

10.2.a. Each handgun qualification shall :

10.2.a.1 Be with the individual's unmodified primary service handgun ;

10.2.a.2 Be on a course of fire requiring a minimum of thirty two (32) rounds ;

10.2.a.3 Range from a distance of no less than three yards to a minimum of fifteen yards ;

10.2.a.4 Be on a target with a scoring area no larger than 468 square inches ;

10.2.a.5 Be conducted by a subcommittee approved firearms officer or firearms instructor ;

10.2.b. The minimum passing score for qualification shall be seventy-five percent (75%).

10.2.b.1 The qualification scores for each officer shall be submitted to the Subcommittee by the employing agency. Any law enforcement agency failing to report firearms qualification shall be listed in the annual report of Law Enforcement Professional Standards filed with the WV Legislature.

10.2.c. The guidelines listed in 10.2a – 10.2.b. shall be considered minimum standards and do not prohibit any law enforcement agency from establishing more stringent qualification standards as an agency policy.

10.3. To qualify for funding or credit for continued certification, all curricula shall be approved in advance by the Subcommittee.

10.3.a. The Subcommittee reserves the right to review or approve, on a case-by-case basis, any curricula that was not approved in advance, as required by §149-2-10.3. of this Rule.

10.4. The training shall be given in two (2) hour minimums; Provided that, exceptions may be granted by the Subcommittee in advance.

10.5. Subject matter shall include the majority of subjects included in the entry level training curriculum or other subjects of a specialized nature. Successful completion, as defined by the sponsoring or presenting training organization, is required for the training to be credited against the training requirement set forth in Subsections §149-2-10.1 and §149-2-11.2 of this Rule.

10.6. Requests for training funds or in-service training credit shall consist of the following:

10.6.a. a list of the program objectives;

10.6.b. the names, titles and agencies of the instructors;

10.6.c. the date and time at which the training is scheduled;

10.6.d. the facility at which the training will be conducted; and,

10.6.e. the name, title and agency of the person in charge of the training.

10.7. Regulations of the host agency shall govern the conduct of the training program; however, each officer is required to attend and complete the full program and, if examinations are given, attain at least a 75% on the examination.

§149-2-11. Supervisory Level In-Service Training.

11.1. Supervisory In-Service Training is applicable to those officers of exempt rank.

11.2. Supervisory level in-service training required by the Committee for continued certification shall consist of the requirements as set forth in section 10.1 of this rule. In addition to the requirements in 10.1 of this rule, supervisors are required to complete ~~Eight~~ eight (8) hours in a Subcommittee approved supervisory level in-service training program within a 24 month period. A maximum of twenty-five percent (25%) of the training may be web-based provided the training is pre-approved by the Subcommittee.

11.2.a. Certified law enforcement instructors may request from the Subcommittee that up to a maximum of eight (8) hours of supervisory level in-service training credit be given for teaching in a Subcommittee approved supervisory level in-service training course. This credit shall be requested on an hour for hour basis in even increments and shall only be applicable within that individual instructor's appropriate training period. This request for credit shall be made at the time the in-service training course application is presented to the Subcommittee for consideration.

11.3 Curriculum for Supervisory In-Service Training.

11.3.a. Curricula for supervisory training requires prior approval and should include, but is not limited to, the following subject matter: the role of the supervisor, supervisor/subordinate relationships, leadership, decision making, discipline, motivating and improving, reporting, interpersonal communications, the supervisor as a trainer, productivity, job stress, morale, evaluation of employee performance, budgeting and management by principles.

§149-2-12. In-Service Training Staffing.

12.1. Instructors in all in-service training where training funds or in-service credit is desired shall meet the standards established by the Subcommittee for certification as set forth in Section §149-2-5 of this Rule.

§149-2-13. Certification of Law Enforcement Officers.

13.1. Individual officers successfully completing an entry-level training program shall make written application to the Committee requesting certification.

13.2. Individual officers beginning employment after July 1, 1981, who are certifiable via the equivalent certification provision of W. Va. Code §30-29-5 and Section §149-2-14 of this Rule shall make application to the Committee for certification during the period that they are completing the training set forth in Subsection §149-2-14.1.e. of this Rule.

13.3. The Director of an approved academy shall promptly provide the names of officers and their agencies successfully completing or failing to complete an entry-level training program.

13.4. The certification of each law enforcement officer is reviewed annually following his or her first certification by the Subcommittee and the head of the officer's employing West Virginia law enforcement agency to ensure employee compliance with the requirements set forth in this Rule.

13.5. Certification may be revoked or suspended if any law enforcement officer fails to complete the applicable in-service training and firearms qualification requirements set forth in Sections §149-2-10 and §149-2-11 of this Rule.

13.6. As a requirement of certification, a law enforcement officer shall notify the Subcommittee within ten (10) days of being charged with a crime, excluding minor traffic offenses. A law enforcement officer who fails to notify the Subcommittee may have his or her certification revoked or suspended.

§149-2-14. Equivalent Certification.

14.1. Applicants for certification as law enforcement officers in the State of West Virginia by the equivalent certification provision shall:

14.1.a. Have completed a Peace Officer's Standards and Training Commission (POST) approved basic entry-level training program or equivalent federal law enforcement training, excluding military

police;

14.1.b. Have been certified as a law enforcement officer in the state where the entry-level training was completed or by the federal government;

14.1.c. Give notice, upon employment to the Subcommittee of his or her desire to seek and be granted equivalent certification as a West Virginia law enforcement officer.

14.1.d. Submit a completed application, as defined in Subdivision §149-2-8.2.a.1. of this Rule, to the training academy within ninety (90) calendar days of their date of employment via the equivalent training provision of the law which shows that they meet the requirements for admission into an entry-level training program; and,

14.1.e. Complete the following entry-level courses within twelve (12) months from the date of employment : Provided, that under extenuating circumstances the Subcommittee may grant a waiver.

14.1.e.1. Firearms Training and Certification;

14.1.e.2. Emergency Vehicles Operations Course;

14.1.e.3. Defensive Tactics;

14.1.e.4. Laws of Arrest;

14.1.e.5. West Virginia Motor Vehicle Law;

14.1.e.6. Criminal Law;

14.1.e.7. Domestic Crimes; and,

14.1.e.8. Laws of Search and Seizure.

14.2. Applicants for equivalent certification who have had their certification revoked or suspended by a POST, and are ineligible for re-certification from that POST, may not make application for equivalent certification in the State of West Virginia.

14.3. During the training set forth in Subsection §149-2-14.1.e. of this Rule the applicant shall complete an application for certification to be submitted to the Subcommittee.

14.4. The Subcommittee shall form a review board which shall review all applications for equivalent certification. The equivalent certification review board shall determine if the applicant's prior law enforcement training is equivalent to the current training standards in West Virginia, and make a recommendation to the law enforcement training sub-committee as to whether the applicant is eligible for equivalent certification. One member of this review board shall be the Director, or his or her deignee, of the West Virginia State Police Academy.

14.5. Any currently employed law enforcement official who failed to complete equivalent training for certification pursuant to the provisions of this section may, beginning the first day of July, two thousand three, until the thirtieth day of September, two thousand three, apply for equivalent certification pursuant to the provisions of this section.

§149-2-15. Re-certification Requirements.

15.1. The purpose of this section is to establish guidelines for the retraining of certified law enforcement officers who have not performed the duties and essential functions of an entry-level law enforcement officer as defined in Subsection §149-2-8.3. of this Rule and who have not obtained mandated in-service training as required by Subsections §149-2-10.2 and §149-2-11.2. of this Rule or qualified with their weapon as required in Subsection §149-2-10.2. of this Rule. For the purposes of this Section, "separated" means any absence from duty, regardless of remedies or status available to the officer, which results in the officer not performing the duties of an entry-level law enforcement officer in West Virginia. This may include, but is not limited to the following: extended active military service; injuries or illness which result in the officer receiving temporary disability, sick leave, or workers compensation benefits; suspensions from an agency regardless of the final outcome; placement of an officer on light duty which exceeds twenty-four months; termination; or resignation.

15.2. Law enforcement officers, or law enforcement officials who desire to re-certify as a law enforcement officer, who have been separated from a law enforcement agency for twenty-four (24) months or less; who are in good standing; and who were certified under the provisions of W. Va. Code §30-29-5; and have been reappointed as a law enforcement officer or law enforcement official by a law enforcement agency; are not required to meet entrance level standards again if:

15.2.a. Within ninety (90) days from the date of employment the individual attends and completes the mandated in-service training for the period and rank; and,

15.2.b. Within ninety (90) days from the date of employment the individual qualifies with his or her duty weapon.

15.3. Law enforcement officers, or law enforcement officials who desire to re-certify as a law enforcement officer, who have been separated from a law enforcement agency for more than twenty-four (24) months, but less than sixty (60) months; who are in good standing; and who were certified under the provisions of W. Va. Code §30-29-5; and have been reappointed as a law enforcement officer or law enforcement official by a law enforcement agency; are required to either test for credit in lieu of attending any of the classes required for re-certification or, attend and successfully complete within twelve (12) months of the date of employment, the following courses : Provided, That the Subcommittee may grant a waiver under extenuating circumstances. The Subcommittee may, at its discretion, require a course to be completed and not allow a test for credit.

15.3.a. Firearms Training and Certification;

15.3.b. Emergency Vehicle Operations Course;

15.3.c. Defensive Tactics;

15.3.d. Laws of Arrest;

15.3.e. West Virginia Motor Vehicle Law;

15.3.f. Criminal Law Update;

15.3.g. Domestic Crimes; and,

15.3.h. Laws of Search and Seizure.

15.4 Law enforcement officers, or law enforcement officials who desire to re-certify as a law enforcement officer, who have been separated from a law enforcement agency in this state for more than sixty (60) months must first receive the approval of the Subcommittee to be re-certified as a law

enforcement officer under the process set forth in Subsection §15.3 of this section. The Subcommittee, on review of the entry level training and other training completed by a law enforcement officer who has had such a separation, may prescribe training to be completed in addition to the classes set forth in Subsection §15.3 of this section. When determined necessary by the Subcommittee the amount of additional training required may require that the law enforcement officer attend the full entry level training program in effect at the time that the review is being completed.

15.5. Within ninety (90) calendar days of their date of employment, re-certification applicants who meet the guidelines set forth in Subsection §15.3 of this section shall submit a completed application to the academy which shows they meet the requirements for admission to an entry-level training program.

15.6. Applicants for re-certification by prior arrangement with the academy may test for credit in any of the classes required for re-certification. If applicable, the applicant shall pass both written and practical tests at the academy standard to receive credit for the class. If the applicant does not meet the academy standard on any written or practical test, the applicant shall attend and meet the academy standard for each of the entry level courses failed by the applicant.

15.7. Any currently employed law enforcement official who failed to complete training for re-certification pursuant to the provisions of this section may, beginning the first day of July, two thousand three, until the thirtieth day of September, two thousand three, apply for re-certification pursuant to the provisions of this section provided that the law enforcement official is in good standing, and was certified pursuant to the provisions of W. Va. Code §30-29-5.

§149-2-16. Certification Denial, Suspension or Decertification.

16.1. The Committee, upon the recommendation of the Subcommittee, may suspend, decertify, or deny the certification of a law enforcement officer or, if applicable, deny admission to a basic entry-level training program for activities that may include, but not be limited to the following:

16.1.a. Willful falsification of any information submitted or relied upon to obtain certified status;

16.1.b. Having a physical or mental condition affecting the officer's ability to perform his or her duties as described in subsection 8.3 of this rule;

16.1.c. Addiction to or unlawful sale, possession, or use of narcotics, drugs, or drug paraphernalia;

16.1.d. Having admitted the commission of or been convicted of a felony or any crime involving dishonesty, unlawful sexual conduct, physical violence, or driving under the influence of alcohol or drugs, or having been placed in or participated in any pretrial diversion or equivalent program for the same;

16.1.e. Failure to complete required in-service training;

16.1.f. Failure to complete required firearms qualifications ;

16.1.g. Legal prohibitions that prevent an officer from performing some or all of his or her required law enforcement duties. It is the responsibility of the officer to report any such legal prohibitions to the Committee within ten (10) days;

16.1.h. Failure to report legal prohibitions as required by 16.1.f of this rule;

16.1.i. His or her certification as a law enforcement officer has been suspended, denied or revoked by another state's Peace Officers Standards and Training Commission.

16.1.j. An inability to lawfully carry a firearm under state and/or federal statute.

16.1.jk. Any conduct or a pattern of conduct unbecoming to a law enforcement officer or law enforcement official or activities that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement.

16.2. Employment by another agency or reinstatement of a law enforcement officer by his parent agency after termination, whether termination was voluntary or involuntary, does not preclude suspension, revocation or denial of law enforcement certification, if the law enforcement officer was terminated for any of the reasons contained in this section.

16.3. Termination of a law enforcement officer, whether voluntary or involuntary, does not preclude suspension, revocation or denial of law enforcement certification, if the officer was terminated for any of the reasons contained in this section.

16.4. An employing agency shall not seek de-certification of a law enforcement officer prior to or in lieu of termination.

16.5. Law enforcement officers whose certification has been suspended, revoked or if applicable an applicant who has been denied admission to a basic entry-level training academy may not exercise any authority as a law enforcement officer during the period for which their certification is suspended, revoked or denied.

§149-2-17. Certified Law Enforcement Officers Separated from Employment.

17.1 The certification of a law enforcement officer who is separated from his or her employment with any West Virginia law enforcement agency, shall immediately become inactive and remain inactive until the subcommittee authorizes reactivation of the officer's certification pursuant to the procedure set forth in this section.

17.1.a. For the purposes of this Section, "separated" means an absence from duty from any West Virginia law enforcement agency as a result of retirement, resignation, or termination.

17.1.b A person whose law enforcement certification has become inactive and desires reactivation, shall apply to the subcommittee by proper application, to have his or her certification reactivated.

17.1.c. A person who is employed by multiple law enforcement agencies simultaneously who separates from employment from any of these agencies shall be considered to be separated as previously defined.

17.2 Whenever a law enforcement officer separates from a West Virginia law enforcement agency, the chief law-enforcement officer of that law enforcement agency shall notify the subcommittee, by a change of status form or electronic submission through the Law Enforcement Professional Standards Information System (LEPSIS), of the separation within ten days of the date of separation. Any law enforcement agency failing to submit a change in status form shall be listed in the annual report of Law Enforcement Professional Standards filed with the WV Legislature. The notification of the separation from employment shall include, with specificity, the following reason or reasons the officer is no longer employed:

17.2.a Retirement;

17.2.b Resignation;

17.2.c Retirement or resignation in lieu of termination;

17.2.d Retirement or resignation while under investigation or allegations of misconduct; or

17.2.e Termination

17.3 Request to reactivate an officer's law enforcement certification

~~17.3.a. Upon receipt of an application for reactivation, the Chair of the Subcommittee shall review the notification of separation received from the law enforcement agency with which the applicant was most recently employed. The Chair of the Subcommittee may grant the applicant a temporary reactivation of his or her certification until a final determination is made pursuant to Subsection 17.5 of this Rule. The Chair of the Subcommittee shall notify the Subcommittee of his actions and decisions.~~

17.3.a. Upon receipt of an application for reactivation, the Chair of the Subcommittee shall review the notification of separation received from the law enforcement agency with which the applicant was most recently employed. The Chair of the Subcommittee may grant the applicant a temporary reactivation of his or her certification until a final determination is made pursuant to Subsection 17.5 of this Rule. The Chair of the Subcommittee shall notify the Subcommittee of his actions and decisions.

~~17.3.b. Upon receipt of an application for reactivation, the Chair of the Subcommittee may request that the law enforcement agency from which the applicant was most recently separated, to provide a copy of all information relevant to the applicant's separation from employment.~~

17.3.b. Upon receipt of an application for reactivation, the Chair of the Subcommittee may request that the law-enforcement agency from which the applicant was most recently separated, to provide a copy of all information relevant to the applicant's separation from employment.

~~17.3.b.1. The Chair of the Subcommittee shall request that subpoenas be issued.~~

~~17.3.b.2. The Subcommittee may empower an employee of the Division of Justice and Community Services to act on its behalf and report findings of fact to the Subcommittee.~~

17.3.c. To allow for the completion of the actions set forth in 17.3.a. and 17.3.b. of this Rule the Chair may empower an employee of the Division of Justice and Community Services to act upon his or her behalf to insure that these actions are completed.

17.4 Upon receipt of a request by the Subcommittee via certified mail or through electronic communications, the chief law-enforcement official of the law enforcement agency with which the applicant was most recently employed, or his or her designee, shall, within eight calendar days, provide the Subcommittee with a copy of information relevant to the applicant's separation of employment or other information requested by the Subcommittee.

17.4.a. An applicant is entitled to a copy of all documents or other materials submitted to the Subcommittee related to the application.

17.5 Within thirty (30) days of the receipt of any information provided by the law enforcement agency, the Subcommittee shall review the information and issue a final decision. The thirty (30) days begin upon the Subcommittee's receipt of all applicable documents, records, etc. requested or subpoenaed.

17.6 The Subcommittee shall approve an application for reactivation unless the Subcommittee affirmatively demonstrates, in writing, that the applicant has engaged in conduct that may result in his or her decertification, as provided in Subsection §16.1 of this rule. Where information available to the Subcommittee indicates that the applicant has engaged in conduct that is in violation of this rule or other laws or rules, the Subcommittee may not grant the application for reactivation.

17.7 An applicant whose certification is not reactivated pursuant to a final decision of the subcommittee, may appeal the final decision of the Subcommittee pursuant to Section §149-2-1 of this rule and W.Va. Code §29A-4-1 et seq.

17.8 Nothing in this section shall be construed to require the rehiring of a person by a law enforcement agency from which he or she was separated, even though the Subcommittee authorizes his or her certification to be reactivated.

17.9 A law enforcement official, or appointing officer, or his or her designee, is immune from civil liability for providing to the Subcommittee any information required or requested by this section.

17.10 All information and materials collected as a result of this section shall be retained in a computer database.

17.10.a The database shall be controlled by the Division of Justice and Community Services and operated under rules and policies developed by the Division.

17.10.b Information maintained in the database may be released to a law enforcement official based upon policies established by the Division and the Subcommittee.

§149-2-18. Subpoena Power

18.1 For the purpose of making a determination on an application for reactivation, or to determine if one of the circumstances addressed in §149-2-16.1 of this Rule are present, the Subcommittee may examine witnesses and subpoena persons, books, records or documents from law enforcement agencies in this state.

18.1.a. The Chair of the Subcommittee shall request that subpoenas be issued.

18.1.b. The Subcommittee may empower an employee of the Division of Justice and Community Services to act on the Chair and its behalf as to the issuance of such subpoenas, their delivery, the receipt of information called for, to prepare information for presentation to the Subcommittee and to report findings of fact to the Subcommittee

§149-2-1819. Certification Retention.

1819.1. Law Enforcement Officers certified under the provision of §30-29-5 who have completed at least 60 months of full time employment as a certified law enforcement officer and who leave active law enforcement employment in good standing, as set forth in subsections §149-2-17.1 to 17.3 of this Rule, may continue their law enforcement certification in the active status by:

1819.1.a. Completing an application for certification reactivation and approval for certification continuation prior to or no later than ninety (90) days after separation from active law enforcement employment;

1819.1.b. Obtaining mandated in-service training as required for active officers under the rank of sergeant. Training periods are from July 1 of one year to June 30 of the next; and,

Form
Widow
0.69"
0.25"
1.75"
3.25"
+ 6.1
9.5" -
12.5"

1819.1.c. Qualifying with their weapon as required for active officers.

1819.2. It is the responsibility of the individual to provide the training and firearms qualification records to the Subcommittee during the appropriate training periods. In-service training and firearms qualifications must be maintained on an annual basis in order to retain law enforcement certification.

149-2-20 Appeal of a Decision of the Subcommittee

20.1 An individual who has been denied entry into the entry level certification program, a trainee who has not been allowed to continue in the entry level training process for other than scholastic reasons, an officer who has made application for his or her certification to be reactivated and that application has been denied, an officer or individual whose certification as a law enforcement officer or as an instructor has been denied, suspended or decertified pursuant to a final decision of the Subcommittee, may appeal that final decision of the Subcommittee to the Governor's Committee on Crime, Delinquency and Correction.

20.2 On receipt of such an appeal in a timely manner the Governor's Committee may designate the Executive Director of the Committee to hear the appeal. The Committee or Executive Director may appoint a hearing examiner to develop a record of the appeal by taking evidence on the matter and to make a recommended decision to the Committee or Executive Director pursuant to W. Va. C.S.R. § 149-1-1 et seq and W. Va. Code 29A-5-1 et seq.

Form

Form