

**WEST VIRGINIA  
SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

**FILED**

Oct 1 10 44 AM '97

Form #7

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE  
Effective Date

*Nov 18, 1997*

**NOTICE OF AN EMERGENCY RULE**

AGENCY: Governor's Committee on Crime, Delinquency and Correction TITLE NUMBER: 149

CITE AUTHORITY: 30-29-3

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 2

TITLE OF RULE BEING AMENDED: Basic Training Academy, Annual In-Service and Biennial In-Service Training Standards

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: \_\_\_\_\_

TITLE OF RULE BEING FILED AS AN EMERGENCY: \_\_\_\_\_

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

Use additional sheets if necessary

*Matthew*  
Signature

The Law Enforcement Training Subcommittee of the Governor's Committee on Crime, Delinquency and Correction's legislative rule promulgated during the 1997 term of the Legislature had sections under Recertification Requirements inadvertently left out (149-2-15.2 through 149-2-15.3). This portion of the rule is used on a routine basis to provide guidelines to returning officers for their requirements for recertification and it was not the intention of the Subcommittee to eliminate them. This section pertains to the training requirements for officers who have been certified and absent from law enforcement for a period of more than twenty-four months. The emergency is created by current regulation that does not contain this section. It allows an officer who had been certified under the provision of §30-29-5 and who has been absent from law enforcement for a period of time from twenty four months to 16 years to return to active police duty without meeting prerequisite requirements for physical abilities, skills or knowledge training prior to, or while performing, law enforcement duties.

The following portions were reinstated to the proposed rule as filed on July 31, 1997, with the LRRC and the Secretary of State's Office:

15.2. Police officers who have been separated for more than twenty-four (24) months from a law enforcement agency in good standing, and were certified under the provisions of W. Va. Code §30-29-5, and have been reappointed as a police officer by a law enforcement agency, will be required to attend and successfully complete at the next available basic training class, or no more than twelve (12) months from date of employment, the following:

15.2.a. Firearms Training and Certification.

15.2.b. Defensive Driving.

15.2.c. Mechanics of Arrest.

15.2.d. Law of Arrest, Search and Seizure.

15.2.e. West Virginia Motor Vehicle Law.

15.2.f. Criminal Law Update.

15.3. Recertification applicants to a basic entry level training academy must render an acceptable medical examination and complete the physical fitness test at the 40th percentile for entry into those required classes.

Additional revisions to the the legislative rule are as follows:

- Revises the definitions to conform to current code.
- Reinforces the 90 calendar day training application requirement period, defines an academy application, and provides for a provision for an extension to the 90 day requirement.
- Defines for the purpose of this rule the following:
  - ◇ scholastic failure
  - ◇ non-enforcement position
  - ◇ absent from law enforcement
- Provides a trainee will be paid for a forty-hour (40) work week while attending a basic entry level training program.
- Provides a time period for which the passage of the physical ability test will be valid and the consequences for the voluntary withdraw of an applicant by his/her agency prior to the start of an academy class.
- Provides that an officer who fails to participate in a physical ability testing program on the assigned date without an excused absence will have this failure to participate counted as a failure of the test.

**Governor's Committee on Crime, Delinquency and Correction  
Title 149  
Series II**

**STATEMENT OF CIRCUMSTANCES**

The Governor's Committee on Crime, Delinquency and Correction is mandated under §30-29-3 of the Code of West Virginia to develop and promulgate rules for state, county and municipal law enforcement agencies regarding their responsibilities with respect to the training and certification of law enforcement officers.

**Governor's Committee on Crime, Delinquency and Correction**  
**Title 149**  
**Series II**

**SUMMARY OF PROPOSED RULE**

The proposed rule establishes standards for basic police training academies, annual in-service and biennial in-service training programs and the requirements for instructor certification. The rule outlines the medical and physical fitness standards for entry into a basic entry level training program. These standards are a result of a job task analysis conducted for the Governor's Committee on Crime, Delinquency and Correction. The rule describes the requirements for annual and biennial in-service training continued and equivalent law enforcement certification and the decertification process.

**APPENDIX B**

**FISCAL NOTE FOR PROPOSED RULES**

Basic Training Academy, Annual In-Service and  
Biennial In-Service Training Standards

**Rule Title:** \_\_\_\_\_

**Type of Rule:**  **Legislative**     **Interpretive**     **Procedural**

**Agency:** Governor's Committee on Crime, Delinquency and Correction

**Address:** 1204 Kanawha Boulevard East  
Charleston, West Virginia 25301

**1. Effect of Proposed Rule**

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	HEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

**2. Explanation of above estimates:**

No additional expenses should be incurred by law enforcement agencies due to the proposed changes in this rule.

**3. Objectives of these rules:**

To establish standards for conducting basic entry level training programs, annual and biennial in-service training programs with standards for successful completion. Establishes medical and physical fitness standards for entry into a basic entry level training program. Establishes standards for law enforcement certification.

**Rule Title:** Basic Training Academy Annual In-Service and  
Biennial In-Service Training Standards

4. **Explanation of Overall Economic Impact of Proposed Rule.**
- A. **Economic Impact on State Government.**
  
  - B. **Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.**
  
  - C. **Economic Impact on Citizens/Public at Large.**

**Date:** 10-1-97

**Signature of Agency Head or Authorized Representative**

JM Allert

DATE: October 1, 1997

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Governor's Committee on Crime, Delinquency and Correction

EMERGENCY RULE TITLE: Basic Training Academy, Annual In-Service and Biennial In-Service Training Standards

1. Date of Filing October 1, 1997

2. Statutory authority for promulgating emergency rule:

30-29-3

3. Date of filing of proposed legislative rule: July 31, 1997

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?

Amends current Legislative Rule.

5. Has the same or similar emergency rule previously been filed and expired?

No.

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.

See attached.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

No.

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8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

See attached.

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The Law Enforcement Training Subcommittee of the Governor's Committee on Crime, Delinquency and Correction's legislative rule promulgated during the 1997 term of the Legislature had sections under Recertification Requirements inadvertently left out (149-2-15.2 through 149-2-15.3). This portion of the rule is used on a routine basis to provide guidelines to returning officers for their requirements for recertification and it was not the intention of the Subcommittee to eliminate them. This section pertains to the training requirements for officers who have been certified and absent from law enforcement for a period of more than twenty-four months. The emergency is created by current regulation that does not contain this section. It allows an officer who had been certified under the provision of §30-29-5 and who has been absent from law enforcement for a period of time from twenty four months to 16 years to return to active police duty without meeting prerequisite requirements for physical abilities, skills or knowledge training prior to, or while performing, law enforcement duties.

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FILED

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

Oct 1 10 44 AM '97

SERIES 2  
~~BASIC TRAINING ACADEMY, ANNUAL IN-SERVICE AND BIENNIAL~~  
~~IN-SERVICE TRAINING STANDARDS~~  
LAW ENFORCEMENT TRAINING STANDARDS

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**§149-2-1. General.**

1.1. Scope. -- These legislative rules establish the basic academy, annual in-service, and biennial in-service training standards.

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

1.3. Filing Date. --

1.4. Effective Date. --

**§149-2-2. Definitions.**

2.1. "Approved law enforcement training academy" means any training facility which is approved and authorized to conduct law enforcement training as provided in this article;

2.2. "Chief executive" means the superintendent of the West Virginia State Police; the chief conservation officer, Division of Natural Resources; the sheriff of any West Virginia county; or the chief of any West Virginia municipal law enforcement agency;

2.3. "County" means the fifty-five major political subdivisions of the state;

2.4. "Exempt rank" means any noncommissioned or commissioned rank of sergeant or above;

2.5. "Governor's Committee on Crime, Delinquency and Correction" or "Governor's Committee" means the Governor's Committee on Crime, Delinquency and Correction established as a state planning agency pursuant to ~~section one, article nine, chapter fifteen of this code;~~ W. Va. Code §15-9-1;

2.6. "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 thereof, other than parking ordinances, and shall include those persons employed as security officers at state institutions of higher education in accordance with the provisions of ~~section five, article four, chapter eighteen b of this code;~~ W. Va. Code §18B-4-5, although no such institution shall be deemed a law enforcement agency. The term also includes those persons employed as rangers by the Hatfield-McCoy regional recreation authority in accordance with the provisions of W. Va. Code §20-14-6, although the authority may not be considered a law enforcement agency: Provided, That the subject rangers shall pay the tuition and costs of training. As used in this article, the term "law enforcement officer" does not apply to the chief executive of any West Virginia law enforcement agency or any watchman or special conservation officer;

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

2.8. "Municipality" means any incorporated town or city whose boundaries lie within the geographic boundaries of the state;

2.9. "Subcommittee" or "law enforcement training subcommittee" means the subcommittee of the Governor's Committee on Crime, Delinquency and Correction created by section two of this article; and

2.10. "West Virginia law enforcement agency" means any duly authorized state, county or municipal organization employing one or more persons whose responsibility is the enforcement of law of the state or any county or municipality thereof: Provided that no state institution of higher education shall be deemed a law enforcement agency.

#### **§149-2-3. Academy Standards (Basic Training).**

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 apply to any place where basic training will be conducted and will insure that the training will be carried out in an adequate and proper setting.

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

3.2. The classroom(s) must be large enough to comfortably accommodate the largest anticipated attendance. Minimum registration for any basic class shall be twenty-five (25) officers. Classrooms for this number must be at least twenty-by-thirty feet (20' x 30').

3.3. All desks shall have smooth and level tops of a width of no less than two feet (2') and shall be of sufficient size to accommodate adult trainees.

3.4. Artificial lighting shall be such as to provide good visibility at all times. Day lighting shall be controlled by either drapes or shades of such design and material to permit the utilization of visual training materials.

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

3.6. 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 must be provided if needed.

3.7. Display surfaces and chalk boards must be positioned as to permit unobstructed viewing from the rearmost area of the classroom. Chalk boards shall be at least forty inches by ninety inches (40" x 90") in dimension.

3.8. Each classroom, if possible, shall be equipped with a lectern of sufficient size to accommodate lecture materials.

3.9. The following equipment must be available and operable when an instructor starts the class presentation for which one of the following would be needed:

3.9.1. Sixteen (16) Millimeter Projector.

3.9.2. Thirty-five (35) Millimeter Slide Projector.

3.9.3. Overhead Projector.

3.9.4. Projection Screen (minimum size 40" x 60").

3.9.5. Television and VCR.

3.10. The firearms range shall meet or exceed all safety standards promulgated by the National Rifle Association. It shall permit both handgun and shotgun firing. It shall be located within reasonable driving distance from the academy site. It shall permit sole occupancy by law enforcement agencies when in use by them for firearms training and/or qualification. Curriculum firearms training time does not include travel time if the range is more than a short walking distance from the academy.

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

3.12. Each law enforcement training academy shall include one room of sufficient size to accommodate trainees during the conduct of physical fitness, self-defense, and mechanics of arrest training.

3.13. Separate restroom facilities of sufficient size and number to accommodate the needs of both sexes shall be provided in close proximity to the classroom(s).

3.14. Adequate and free parking space shall be provided. Said parking space shall be within reasonable walking distance of all classrooms.

3.15. Each trainee shall be furnished with the following expendable supplies:

3.15.1. Ammunition (firearms training).

3.15.2. Notebooks (three ring binders) -- Sufficient number to accommodate all notes and handout materials.

3.15.3. Notebook indexes -- Sufficient number to permit indexing of each individual notebook.

3.15.4. Legal pads -- Sufficient number to permit taking of detailed notes throughout duration of training program.

3.15.5. Current copy of ~~chapter seventeen of the West Virginia Code~~ W. Va. Code §17, as amended (West Virginia Motor Vehicle Laws).

3.15.6. Pencils -- Sufficient number to permit taking of detailed notes throughout duration of training program.

3.15.7. Copy of course schedule.

3.15.8. Copy of rules and regulations governing operation of training facility.

3.15.9. Handout materials as required by various instructors.

3.16. Law enforcement training academies shall provide food services in one of the following manners:

3.16.1. 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 Health Department regulations.

3.16.2. If a training academy does not have food preparation and dining facilities and must utilize commercial food services, these services should be located within a distance which would allow the trainee to leave, eat, and return to class within sixty (60) minutes.

3.17. A medical facility within a reasonably close proximity to training site shall be identified.

3.18. All newly hired and uncertified law enforcement officers must make application for admission to a basic entry level training program within 90 calendar days of their date of employment. W. Va. Code §30-29-5b

3.19. Application to a basic entry level training program means submission of a complete and medically acceptable academy application consisting of an application

sheet, medical history statement, medical examination report, and fingerprint cards (federal and state) received by an academy within 90 calendar days of the applicant's date of employment. Incomplete or medically unacceptable applications must be corrected, resubmitted and accepted by the academy within the applicant's 90 calendar day employment period.

3.20. Any officer who fails to file or have filed on his/her behalf an academy application within the 90 calendar day period must be immediately terminated as a law enforcement officer as provided in W. Va. Code §30-29-5f.

3.21. Any officer terminated may apply to the Subcommittee as a private citizen for training and certification at his/her own expense. W. Va. Code §30-29-5f

3.22. An applicant may file or have filed on his/her behalf a request for an extension of the 90 calendar day period. This request must be filed prior to the end of the 90 calendar day period and must be related to a request for reasonable accommodation or correctable medical problem.

#### **§149-2-4. Academy Training Curriculum.**

4.1. The objective is to provide all law enforcement officers with a minimum of six hundred (600) hours of basic training for certification.

4.2. It is the responsibility of each agency to provide training in those areas not included in the core curriculum. Local ordinances, department policies and procedures, and care of motor equipment are examples of training that must be provided by each agency.

4.3. As need occurs the core curriculum will be amended to more nearly meet the needs of the largest possible number of police agencies. Changes in the approved core curriculum shall require prior approval of the Governor's Committee on Crime, Delinquency and Correction. Recommendations for change shall be made in writing to the committee.

#### **§149-2-5. Staffing.**

5.1. The appointment of Director of Training (Training Officer) 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 appointment may be made by the head of the department under which the training will be provided.

5.1.1. Approval of the Director of Training is required by the Governor's Committee. Approval will be based upon education, the amount and variety of experience in law enforcement, training experience and administrative experience, or a combination of these factors.

5.1.2. The Training Director has a broad range of responsibilities summarized in the overall responsibility for the operation of the training program and for its success or failure. Specific responsibilities are:

5.1.2.1. For compliance of all personnel with policies, procedures and regulations governing the training academy as training programs;

5.1.2.2. For the selection of qualified instructors;

5.1.2.3. Recommend and request reassignment of training personnel;

5.1.2.4. For the maintenance of professional skills and abilities of personnel assigned to the training program;

5.1.2.5. To require performance of high quality of all personnel assigned a training function. It shall be a continuing responsibility to see that instructors are assigned only those topics which they are qualified to teach, and are supervised on a regular basis to ensure that a high quality of instruction is maintained.

5.1.3. In general, the Director has that authority necessary to carry out assigned responsibilities. Specific authority is delegated to:

5.1.3.1. Require all applicants to provide an acceptable medical examination and complete the physical fitness test battery at the 40th percentile for entry into a basic entry level training program. If an officer fails the medical examination, he/she may, after correcting his/her medical deficiency and with proof by proper medical documentation, reapply to the next scheduled basic program.

5.1.3.2. Exercise administrative and supervisory control over personnel.

5.1.3.3. Recommend and request reassignment of training personnel.

5.1.3.4. Dismiss trainees.

5.1.3.5. Excuse absences of trainees.

5.1.3.6. Delegate authority to a designate.

5.1.4. The Director is accountable to the appointing authority for the operation of the training academy or program in compliance with agency policies and regulations relating to it. In a limited sense, the Director is accountable to the Law Enforcement Training Subcommittee to keep it informed regarding the training program. Normally this will be accomplished through progress reports. However, the Director might

occasionally be asked to appear to discuss with the subcommittee, or requested to appear to discuss the training program and make recommendations regarding it.

5.2. All law enforcement instructors shall meet the standards established by the Governor's Committee on Crime, Delinquency and Correction for certification as follows:

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

5.2.2. A high school diploma or its equivalent.

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

5.2.4. Sixteen (16) hours of verified training in each subject area in which certification is desired.

5.2.5. Forty (40) hours of instructor development training approved by the Committee. Included in the course content must be areas of communication, psychology of learning, techniques of instruction, use of instructional aids, preparation and use of lesson plans, preparing and administering tests.

5.2.6. A written recommendation from the applicant's chief or sheriff, or if a civilian, from a sheriff or chief from whom his/her teaching abilities are known.

5.3. Firearms instructors, in addition to other required qualifications, must have extensive experience in the area of firearms and must have completed a firearms instructor school, of not less than five (5) days, approved by the Governor's Committee on Crime, Delinquency and Correction.

5.4. Members of the 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, are exempt from the certification process.

5.5. Certified law enforcement instructors must instruct at least a two (2) hour block in a Committee certified in-service program every twenty-four (24) months from date of original certification in order to keep instructor certification active, or attend, at a minimum, a four (4) hour program on teaching updates or additional training in subject areas in which individual is certified to instruct, within twenty-four (24) months of the original instructor certification.

5.6. Instructors placed on inactive status must, within twenty-four (24) months, attend a teaching update program or teach a two (2) hour block in a Committee approved program under the direct supervision of an active certified instructor. Failure to obtain one (1) of the above in the time periods described will result in the instructor certification being voided by the Committee.

5.7. Firearms instructors must instruct at least a two (2) hour block in a department 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 original instructor certification in order to keep instructor certification active; or attend at a minimum a four (4) hour program on teaching updates or

additional training in subject areas in which individual is certified to instruct within twenty-four (24) months of original instructor certification date.

5.8. Firearms instructors placed on inactive status must within twenty-four (24) months from date of original instructor certification, attend a teaching update program or teach in a department recognized firearms program under the direct supervision of an active firearms instructor. Failure to obtain one (1) of the above during the time periods described will result in instructor certification being voided by the Committee.

5.9. The Governor's Committee on Crime, Delinquency and Correction, at its discretion and upon the recommendation of the Law Enforcement Training Subcommittee, may waive any part(s) of the requirements if it finds a person, although not meeting all of the eligibility requirements, is otherwise qualified to be an instructor.

5.10. Law Enforcement Instructor Certification is valid for a period of forty-eight (48) months from the date of approval for instructors on active status. These dates appear on the Instructor Control Form.

5.11. The Governor's Committee on Crime, Delinquency and Correction may, at its discretion and upon the recommendation of the Law Enforcement Training Subcommittee, revoke an instructor's certification:

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

5.13. When an instructor is terminated or asked to resign or resigns instead of being discharged for cause by his employer;

5.14. When a recommendation to revoke certification is made by a Director of a training program certified by the Law Enforcement Training Subcommittee, or by the instructor's employer for failure to provide adequate instruction; or

5.15. For falsified or omitted information required on the application for instructor certification.

5.16. The duties, responsibilities and authority are as outlined by the regulations or guidelines of the agency under which the training is directed and conducted.

5.17. Instructors are accountable initially to a first-level supervisor if one exists. If there are no first-level supervisors, they will be accountable to the Director of the Academy of Training.

5.18. Instructor standards are applicable to the Basic Training Academy, Annual In-Service and Biennial In-Service Training.

#### **§149-2-6. Policies.**

6.1. Attendance at all classes and class functions is required unless excused by the Director or his designate. Absences will be excused for illness or injury of the officer, for serious illness or death in the officer's immediate family, or for other cause approved by the Director. An unexcused absence constitutes grounds for dismissal. Work missed while absent shall be made up.

6.2. Classes may be audited by law enforcement officers if space is available.

6.3. The minimum passing grade on examination is seventy percent (70%) and an average of seventy percent (70%) must be maintained for graduation and certification. Make-up examinations will be given within three (3) to five (5) days. In the event the trainee passes the make-up examination, he/she shall be retained in the training program with the understanding that his/her academic standing shall reflect the

score obtained on the original examination which will be recorded on the individual's class record.

6.4. Withdrawal from the academy may be necessary because of injury or extended illness. Re-entry to the basic training program shall be at the discretion of the Director of Training.

6.5. Officers may be dismissed at the discretion of the Director of Training because of scholastic failure, disobedience of staff orders, a flagrant or repeated violation of academy regulations, or misconduct.

6.5.1. Written notice of dismissal shall be given by the Academy Director or Director of Training to the head of the agency employing the dismissed officer. A copy of the written notice will be given to the affected officer and a copy sent to the Executive Director of the Governor's Committee on Crime, Delinquency and Correction.

6.5.2. Any person dismissed for reasons other than scholastic failure has the right to appeal, except as otherwise provided by the West Virginia W. Va. Code. (For the purpose of this rule, scholastic failure means the failure of required graded academic examinations or evaluated skills courses). The initial appeal shall be to the head of the agency or department sponsoring the training. If necessary, a subsequent appeal shall be to the Governor's Committee on Crime, Delinquency and Correction in accordance with the Administrative Procedures Act.

6.6. The trainee's salary for a forty-hour work week while undergoing training and his travel costs to and from the training site ~~will~~ shall be the responsibility of the

employing agency. Cost of training uniforms, fatigues and other personal equipment required will be paid for by the employing agency.

6.7. Cost for food, lodging and training materials for trainees attending a live-in basic training academy may be paid by the Governor's Committee on Crime, Delinquency and Correction.

6.8. Other costs will be reviewed by the subcommittee upon submission of grant application in accordance with state regulations.

6.9. This section establishes the process and qualifications for entry into a basic entry level training program, including but not limited to, demonstration of the ability to perform all essential tasks and functions contained in the job description, through medical standards, and physical ability standards. These rules will insure that persons appointed to positions as police officers, in agencies subject to these rules, are medically fit to undergo the training requirements for such position, and perform their essential tasks, at a minimal risk to themselves, their fellow officers, and the public.

6.9.1. All requests for a reasonable accommodation for entry into a basic entry level training program will be considered by a review panel appointed by the Law Enforcement Training Subcommittee of the Governor's Committee on Crime, Delinquency and Correction. The review panel's decision shall be based on the job description of a basic entry level law enforcement officer.

#### **§149-2-7 Academy Entry Standards.**

7.1. Job Description: Entry Level Law Enforcement Officer.

7.1.1. Under regular supervision, 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.

7.1.2. Essential Function - Arrest and Detain Persons.

7.1.2.1. Advise persons of constitutional rights (Miranda Warning).

7.1.2.2. Arrest persons with a warrant.

7.1.2.3. Arrest persons without a warrant (non-traffic).

7.1.2.4. Conduct temporary detention ("stop and frisk") of suspicious persons.

7.1.2.5. Execute felony motor vehicle stop.

7.1.2.6. Investigate suspicious vehicle.

7.1.2.7. Plan how to make/execute arrests.

7.1.2.8. Prepare information/complaint for filing of charges following arrest (criminal investigation).

7.1.2.9. Review warrants for completeness and accuracy.

7.1.2.10. Obtain arrest warrants and/or make proper return.

7.1.2.11. Check for wants/warrants on persons through DMV/NCIC.

7.1.3. Essential Function - Protect Crime Scene and Collect Evidence and Information.

7.1.3.1. Collect evidence and personal property from crime scene.

7.1.3.2. Diagram crime scenes.

7.1.3.3. Document chain of custody for evidence.

7.1.3.4. Dust and lift latent fingerprints.

7.1.3.5. Examine evidence and personal property from crime scenes to determine importance.

7.1.3.6. Package evidence or personal property.

7.1.3.7. Use camera (35mm/video camera, etc.).

7.1.3.8. Protect crime scene until specialized or back-up assistance arrives.

7.1.3.9. Record location of physical evidence and fingerprints at scene.

7.1.3.10. Secure crime scene.

7.1.3.11. Initial/Mark/Label evidence.

7.1.3.12. Determine area of crime scene.

7.1.3.13. Search crime scenes for physical evidence.

7.1.3.14. Search dead bodies for personal property/evidence.

7.1.3.15. Recover and inventory stolen property.

7.1.3.16. Tag evidence and confiscated property.

#### 7.1.4. Essential Function - Enforce DUI/Traffic Laws.

7.1.4.1. Observe person to recognize signs of drug or alcohol intoxication.

7.1.4.2. Make custodial traffic arrest (e.g., DUI).

7.1.4.3. Administer roadside sobriety tests.

7.1.4.4. Fill out warrant application to obtain DUI related blood/urine sample.

7.1.4.5. Arrange for obtaining blood or urine sample for blood alcohol content (BAC).

7.1.4.6. Arrest DUI suspects.

7.1.4.7. Determine probable cause to execute DUI stop.

7.1.4.8. Operate "breathalyzer/intoxilyzer" type instrument to test blood alcohol content.

7.1.4.9. Investigate hit and run violations.

7.1.4.10. Investigate traffic accident scene to identify points of impact.

7.1.4.11. Record statements of witnesses to traffic accidents.

7.1.4.12. Assist trapped persons.

7.1.4.13. Direct a moving vehicle out of a line of traffic to execute vehicle stop.

7.1.4.14. Stop vehicles to arrest, cite or warn occupants.

7.1.5. Essential Function - Operate Patrol Vehicle.

7.1.5.1. Engage in emergency driving in congested area.

7.1.5.2. Engage in high speed pursuit or response driving off road.

7.1.5.3. Engage in high speed pursuit or response driving on open road.

7.1.5.4. Respond to crime in progress calls.

7.1.5.5. Operate portable/car radio equipment.

7.1.6. Essential Function - Conduct Search and Seizure.

7.1.6.1. Obtain warrants and/or make proper return.

7.1.6.2. Plan, organize, and conduct raids.

7.1.6.3. Observe person's body language to assess intentions/attitudes.

7.1.6.4. Conduct field search of arrested persons.

7.1.6.5. Conduct frisk or pat down.

7.1.6.6. Search movable automobile under independent probable cause.  
7.1.6.7. Search persons with a court order (e.g., blood sample, hair sample).

7.1.6.8. Search premises or property incident to arrest.

7.1.6.9. Search premises or property in hot pursuit/emergency situations.

7.1.6.10. Search premises or property with consent.

7.1.6.11. Search premises or property with warrant.

7.1.6.12. Seize contraband.

7.1.6.13. Search for a person in a darkened building or environment.

7.1.7. Essential Function - Use Physical Force to Control Persons.

7.1.7.1. Confront, in a riot formation, groups of agitated people.

7.1.7.2. Control hostile groups (e.g., demonstrators, rioters).

7.1.7.3. Use holds or devices to control or take suspect down.

7.1.7.4. Tackle a fleeing suspect.

7.1.7.5. Subdue physically attacking person.

7.1.7.6. Use weaponless defense tactics.

7.1.7.7. Subdue person resisting arrest.

7.1.7.8. Use body pressure points to control person.

7.1.7.9. Disarm violent armed suspect.

7.1.7.10. Pull person out of vehicle who is resisting arrest.

7.1.7.11. Strike a person with side-handled baton.

7.1.7.12. Strike a person with straight baton.

7.1.7.13. Use hammer lock to hold person.

- 7.1.7.14. Use submission holds to control person.
- 7.1.7.15. Locate and observe crowd agitators.
- 7.1.7.16. Patrol riot stricken or civil disturbance areas.
- 7.1.7.17. Physically restrain crowd.
- 7.1.7.18. Catch a falling person to prevent injury.
- 7.1.7.19. Use body language to project control and influence situation.
- 7.1.7.20. Use voice commands to project control and direct actions.
- 7.1.7.21. Hold flashlight in one hand while performing various police

duties.

7.1.8. Essential Function - Use Deadly Weapons:

- 7.1.8.1. Clean and inspect weapons.
- 7.1.8.2. Discharge firearm at moving vehicle.
- 7.1.8.3. Discharge firearm at night.
- 7.1.8.4. Discharge firearm at person.
- 7.1.8.5. Draw weapon to protect self or third party.
- 7.1.8.6. Participate in firearms training.
- 7.1.8.7. Secure firearm when off duty (e.g., home).
- 7.1.8.8. Fire weapon in dark environment with flashlight in one hand.
- 7.1.8.9. Fire a weapon in night-time combat (not including training).
- 7.1.8.10. Fire weapon in day-time combat (not including training).
- 7.1.8.11. Carry firearm when off duty.
- 7.1.8.12. Discharge weapon at animal.

7.1.9. Essential Function - Provide Emergency Assistance.

7.1.9.1. Determine existence of hazardous materials at scene of wreck (e.g., train, vehicle, etc.).

7.1.9.2. Evacuate persons from dangerous areas (e.g., fire, chemical accident, etc.).

7.1.9.3. Secure accident and disaster scenes.

7.1.9.4. Administer cardio-pulmonary resuscitation (CPR).

7.1.9.5. Administer mouth-to-mouth resuscitation.

7.1.9.6. Apply basic first aid to control bleeding.

7.1.9.7. Apply basic first aid to treat for amputations.

7.1.9.8. Apply basic first aid to treat for choking (e.g., Heimlich Method).

7.1.9.9. Talk with person attempting suicide to get them to stop or delay attempt.

7.1.9.10. Use protective gear to prevent contact with infectious diseases.

7.1.9.11. Take mentally deranged person into custody for their own protection.

7.1.9.12. Mediate family disputes.

7.1.9.13. Fire a weapon in dark environment with flashlight in one hand.

7.1.9.14. Pull person out of a vehicle to perform a rescue.

7.1.9.15. Place children in protective custody (e.g., child abuse).

7.1.10. Essential Function - Conduct Initial and Follow-Up Investigation of Various Crimes and Events.

7.1.10.1. Conduct complete criminal investigations.

7.1.10.2. Respond to and conduct preliminary investigation of events

related to:

- 7.1.10.2.1. Homicide.
- 7.1.10.2.2. Rape.
- 7.1.10.2.3. Malicious Wounding.
- 7.1.10.2.4. Attempted Murder.
- 7.1.10.2.5. Burglary.
- 7.1.10.2.6. Theft.
- 7.1.10.2.7. Motor Vehicle Theft/Attempt.
- 7.1.10.2.8. Arson and Bombing/Attempts.
- 7.1.10.2.9. Weapon/Firearms Offenses.
- 7.1.10.2.10. Sex Offenses.
- 7.1.10.2.11. Controlled Substances.
- 7.1.10.2.12. Family Offenses.
- 7.1.10.2.13. Domestic Violence.
- 7.1.10.2.14. DUI - Intoxicants/Drugs.
- 7.1.10.2.15. Fatal Traffic Accident.
- 7.1.10.2.16. Vehicular Homicide.
- 7.1.10.2.17. Vehicular Assault.
- 7.1.10.2.18. Firearm Accidents.
- 7.1.10.2.19. Death/Bodies Found.
- 7.1.10.2.20. Disaster.

7.1.10.2.21. Conduct on-the-scene suspect identifications (e.g., show-up or one-on-one suspect identification).

7.1.10.2.22. Conduct stationary surveillance of individuals or locations.

7.1.10.2.23. Determine whether incidents are criminal or civil matters.

7.1.10.2.24. Determine whether recovered property is linked with a previous crime.

7.1.10.2.25. Exchange necessary information with other law enforcement officials (including intelligence information).

7.1.11. Essential Function - Write and Read Reports and Other Documents.

7.1.11.1. Complete initial offense report.

7.1.11.2. Complete arrest reports.

7.1.11.3. Complete criminal investigation report of felonies.

7.1.11.4. Record confessions in writing.

7.1.12. Essential Function - Present Testimony.

7.1.12.1. Present evidence in legal proceedings.

7.1.12.2. Review reports and notes prior to court testimony.

7.1.12.3. Testify at evidence suppression hearings.

7.1.12.4. Testify at probable cause preliminary hearings.

7.1.12.5. Testify before grand juries.

7.1.12.6. Testify in criminal trials.

7.1.12.7. Testify in court at implied consent hearings (e.g., Division of Motor Vehicles' drivers license revocation, breath test refusal).

7.1.13. Essential Function - Transport Persons in Custody.

7.1.13.1. Operate vehicle to transport prisoners.

7.1.13.2. Search vehicle for weapons and/or contraband (e.g., before and after prisoner transport).

7.1.14. Essential Function - Conduct Interviews and Interrogations.

7.1.14.1. Interrogate adult suspects.

7.1.14.2. Interview complainants, witnesses, etc.

7.1.14.3. Interview victims of sex crimes.

7.1.14.4. Interrogate suspect or witness with use of polygraph results.

7.1.14.5. Interview informants.

7.1.14.6. Take statements of witnesses.

7.1.14.7. Interrogate juvenile suspects.

7.1.15. Essential Function - Conduct Traffic Accident Investigation.

7.1.15.1. Collect physical evidence from accident scene.

7.1.15.2. Complete the standard DMV traffic accident report form.

7.1.15.3. Determine contributing factors to an accident.

7.1.15.4. Diagram accident scenes.

7.1.15.5. Protect traffic accident physical evidence for collection.

7.1.15.6. Take precautions to prevent additional accidents at accident scene.

7.1.16. Equipment Used in the Performance of Essential Tasks.

7.1.16.1. Roadside Alcohol Breath Test.

7.1.16.2. Automobile.

7.1.16.3. Baton.

- 7.1.16.4. Body Armor.
- 7.1.16.5. Fire Extinguisher.
- 7.1.16.6. First Aid Kit.
- 7.1.16.7. Road Flares.
- 7.1.16.8. Flashlight.
- 7.1.16.9. Flexicuffs.
- 7.1.16.10. Handcuffs.
- 7.1.16.11. Handheld Police Radio.
- 7.1.16.12. Police Car Radio.
- 7.1.16.13. Public Address System.
- 7.1.16.14. Radar Unit.
- 7.1.16.15. Semi-Automatic Pistol.
- 7.1.16.16. Shot Gun.
- 7.1.16.17. Lights and Sirens.
- 7.1.16.18. Rubber Gloves.
- 7.1.16.19. Ammunition/Magazine.
- 7.1.16.20. Weapon Cleaning Equipment.

## 7.2. Medical Standards.

7.2.1. All applicants for entry into a basic entry level training program shall submit to a medical examination by a licensed physician chosen by and at the expense of the employing agency.

7.2.2. The applicants shall complete a comprehensive medical history questionnaire, as well as submit to a medical examination which must include the

following minimum requirements: Medical History, Physician's Examination, Laboratory Test, Blood Chemistry (Chem 20 or equivalent), Complete Blood Count (CBC), Urinalysis (with Dipstick), Tuberculosis (Mantoux), Electrocardiogram (ECG) (Resting), Drug Screening (DOH-5 or 8-10 Panel), and Physician's Certification of Fitness. The medical examination shall consist of selection criteria aimed at identifying conditions that may potentially exclude an applicant from entry into a basic entry level training program. Applicants employed by a law enforcement agency, which falls under ~~§8-22-16, of the Code of West Virginia~~, W. Va. Code §8-22-16, are required to meet medical standards of the National Fire Protection Standards 1582 - "Medical Requirements for Fire Fighters" for entry into a basic entry level training program. The following conditions may be cause to exclude an applicant from consideration for acceptance, except where specifically noted. All requests for reasonable accommodation will be reviewed by a panel of at least four (4) people appointed by the Chairman of the Law Enforcement Training Subcommittee using 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.

#### 7.2.3. Eyes and Vision.

7.2.3.1. Visual Acuity - An applicant's uncorrected distant 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 must not interfere with proper fitting of a facial mask, e.g., gas mask, riot helmet or air or blood borne pathogen masks, etc.

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

7.2.3.1.b. Ophthalmological procedures such as radial keratotomy, repair of retinal detachment. Sufficient time (i.e., six months) must have passed to allow stabilization of visual acuity and to ensure that there are no postsurgical complications.

7.2.3.2. Visual Acuity - Color Vision: The applicant must pass a "controlled color discrimination test", e.g., United States Department of Transportation Color Vision Examination.

7.2.3.3. 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.

7.2.3.4. The examining physician is to note any other conditions which may interfere with the applicant's ability to perform the essential task listed in the job description of entry level law enforcement officer.

#### 7.2.4. Ears and Hearing.

7.2.4.1. Hearing Acuity - Using an audiometer, the applicant should have no 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.

7.2.4.2. Acute Otitis Media, Otitis Externa, and Mastoiditis - If the applicant meets Hearing Acuity guidelines and the condition is resolved, then these conditions are non-disqualifying.

7.2.4.3. 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.

7.2.5. Nose, Throat, and Mouth.

7.2.5.1. Loss of Sense of Smell.

7.2.5.2. Aphonia, Speech Loss or Speech Defects.

7.2.5.3. Abnormalities of the Nose, Throat, or Mouth - If the abnormality does not interfere with the applicant's breathing, or the proper fitting of a gas mask, then the condition is non-excludable.

7.2.6. Peripheral Vascular System.

7.2.6.1. 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 performance of duty as an entry level law enforcement officer, the condition may not cause the applicant to be excluded. The applicant must 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.

7.2.6.2. Peripheral Vascular Abnormality - Any condition which is severe and/or symptomatic may cause the applicant to be excluded, e.g., arterial insufficiency, deep or superficial vein thrombophlebitis, Raynaud's Disease.

7.2.7. Heart and Cardiovascular System.

7.2.7.1. Congenital Heart Disease - If the applicant's functional work capacity is unimpaired, then the condition may not cause the applicant to be excluded.

7.2.7.2. Valvular Heart Disease - Includes significant valvular insufficiency, significant septal defects (any valve), and prolapsing mitral valve (symptomatic).

7.2.7.3. Coronary Artery Disease.

7.2.7.4. 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.

7.2.7.5. Angina.

7.2.7.6. Congestive Heart Failure.

7.2.7.7. Cardiomyopathy.

7.2.7.8. Pericarditis, Endocarditis, and Myocarditis.

7.2.8. Respiratory System.

7.2.8.1. The applicant's respiratory system must be free of chronically disabling conditions that would interfere with the applicant's ability to perform essential job tasks.

7.2.8.2. Infectious or Potentially Infectious Pulmonary Tuberculosis.

7.2.8.3. Chronic Bronchitis.

7.2.8.4. Chronic Obstructive Pulmonary Disease.

7.2.8.5. Emphysema.

7.2.8.6. Restrictive Lung Diseases.

7.2.8.7. Bronchiectasis and Pneumothorax (current or repeated history).

7.2.8.8. Pneumonectomy.

7.2.8.9. Acute Mycotic Diseases - Including but not limited to coccidioidomycosis and histoplasmosis.

7.2.8.10. Acute Pleurisy.

7.2.8.11. Malignant Disease - Any condition which may interfere with the applicant's ability to perform the duties attendant to the position of a basic entry level officer must be noted.

7.2.9. Gastrointestinal System.

7.2.9.1. Colitis - Including but not limited to Crohn's Disease, Ulcerative Colitis, Irritable Bowel Syndrome (symptomatic or needing medication), Bacterial Colitis.

7.2.9.2. Diverticulitis.

7.2.9.3. Esophageal Disorders - Including, but not limited to, Esophageal Stricture, Lower Esophageal Ring and Esophageal Spasm. If the applicant's condition is controlled, the condition is non-disqualifying.

7.2.9.4. Pancreatitis.

7.2.9.5. Gall Bladder Disorders.

7.2.9.6. Active Peptic Ulcers.

7.2.9.7. Symptomatic Inguinal, Umbilical, Ventral, Femoral, or Incisional Hernias.

7.2.9.8. Malignant Disease of the Liver, Gall Bladder, Pancreas, Esophagus, Stomach, Small or Large Bowel, Rectum, or Anus.

7.2.9.9. Gastrointestinal Bleeding.

7.2.9.10. Active or Chronic Hepatitis.

7.2.9.11. Cirrhosis of the Liver.

7.2.9.12. Motility Disorders, e.g., Scleroderma.

(If any of the above or G-I conditions are controlled, then they may not cause the applicant to be excluded).

7.2.10. Genitourinary System.

7.2.10.1. The examining physician is to note any conditions which may interfere with the applicant's ability to perform essential job tasks.

7.2.10.2. Pregnancy - The examining physician should record that the applicant is pregnant.

7.2.10.3. Nephrectomy - If an applicant possesses this condition with normal natural renal function, then the condition is non-disqualifying.

7.2.10.4. Acute Nephritis.

7.2.10.5. Nephrotic Syndrome.

7.2.10.6. Acute Renal/Urinary Calculi.

7.2.10.7. Renal Transplant.

7.2.10.8. Renal Failure.

7.2.10.9. Hydrocele and Varicocele (Symptomatic).

7.2.10.10. Malignant Diseases of Bladder, Kidney, Ureter, Cervix, Ovaries, Breasts, Prostate, etc.

7.2.10.11. Active Venereal Diseases.

7.2.10.12. Urinary Tract Infection.

7.2.10.13. Polycystic Kidney Disease.

7.2.10.14. Pelvic Inflammatory Disorders.

7.2.10.15. Endometriosis.

7.2.10.16. Inflammatory Disorders, e.g., prostatitis, orchitis, epididymitis.

7.2.10.17. Scleroderma.

7.2.11. Endocrine and Metabolic Systems.

7.2.11.1. Uncontrolled Thyroid Disease.

7.2.11.2. 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.

7.2.11.3. Adrenal Dysfunction - Including but not limited to Addison's Disease and Cushing's Disease.

7.2.11.4. Insulin Reactions.

7.2.11.5. Untreated Thyroid Malignancy.

7.2.12. Musculoskeletal System.

7.2.12.1. The examining physician is to note any condition which may interfere with the applicant's ability to perform essential job tasks.

7.2.12.2. Disorders that Limit Motor Function.

7.2.12.3. Cervical Spine or Lumbar Sacral Fusion.

7.2.12.4. Degenerative Cervical or Lumbar Disc Disease (if symptomatic).

7.2.12.5. Extremity Amputation.

7.2.12.6. Osteomyelitis.

7.2.12.7. Muscular Dystrophy.

7.2.12.8. Loss in the Motor Ability from Tendon or Nerve Injury/Surgery -

In an area relevant to the applicant's performing the essential tasks of the job.

7.2.12.9. Arthritis - If the applicant possesses this condition with no functional impairment, then the condition is non-excludable.

7.2.12.10. Coordinated Balance.

7.2.12.11. Symptomatic Herniated Disc.

7.2.12.12. Spinal Deviations.

7.2.13. Hematopoietic and Lymphatic Systems

7.2.13.1. Hematopoietic Disorders (including malignancies), e.g., SCD, thalassemia, G6PSD, etc.

7.2.13.2. Hemophilia.

7.2.14. Nervous System.

7.2.14.1. The applicant must be free of any disorder which may interfere with performing the duties attendant to the position of a basic entry level officer.

7.2.14.2. Seizure Disorder (all types).

7.2.14.3. Cerebral Palsy.

7.2.14.4. Movement Disorders, e.g., Parkinson's.

7.2.14.5. Cerebral Aneurysms.

7.2.14.6. Syncope.

7.2.14.7. Progressive Neurological Diseases - Including but not limited to Multiple Sclerosis and Huntington's Chorea.

7.2.14.8. Peripheral Nerve Disorder - Including but not limited to Polyneuritis, Mononeuritis, and Neurofibromatosis.

7.2.14.9. Narcolepsy.

7.2.14.10. Cerebral Vascular Accident.

7.2.14.11. Central Nervous System Infections.

7.2.15. Any condition that requires further evaluation beyond that offered by the applicant's physician shall be conducted at the applicant's expense.

7.3. Physical Ability Standards.

7.3.1. All applicants for basic entry level training will be required to perform at the 40th percentile of ability as a pass/fail screening for entry into a basic entry level training program.

7.3.2. This 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 task. Standards for successful completion of ability screening tests shall be determined by the Governor's Committee on Crime, Delinquency and Correction based on generally accepted ability standards.

7.3.3. The four (4) elements of the test battery are designed to confirm the physical ability to perform recruit level training and perform the essential tasks of policing. They are not job task simulations, but rather are construct validation of the candidate's capacity to learn and perform essential physical tasks. Applicants will be given two attempts to obtain the 40th percentile on each test element. Each test element must be passed before proceeding to the next. Any applicant unable to obtain the 40th percentile will be provided a pamphlet on how to prepare for the test battery and invited to retry at the next available basic entry level training class. Applicants unable to attain the 40th percentile upon retest must 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 a basic entry level training program. (For the purpose of this rule, non-enforcement means that an officer will not wear the uniform of that agency, will not be armed, and will not perform the duties of a law enforcement officer as defined in W. Va. Code §30-29-1).

7.3.4. The physical ability tests will consist of:

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

7.3.4.2. Flex (Flexibility) - The "sit and reach" test measures the range of motion of the lower back and hamstrings. The test involves stretching out to touch the toes and beyond with extended arms from the sitting position. The score is in inches reached on a yardstick with the fifteen inch (15") mark being at the toes.

7.3.4.3. 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.

7.3.4.4. 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.

7.4. Applicants who successfully completed all four elements of the physical ability test may use the passage of this test for entry into the first available basic entry level training program. In no case will the results of the physical ability test be valid for a period of more than six months.

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

7.6. Failure of any applicant to participate in an assigned physical ability screening will be recorded as a failure of that applicant of the physical ability test. Applicants who, as the result of extenuating circumstances, are unable to attend and participate in a scheduled physical ability screening must advise the academy director in writing prior to the screening date requesting rescheduling and spelling out in detail the extenuating circumstances.

**§149-2-8. Annual In-Service Training Standards.**

8.1. Standards for annual in-service and biennial supervisory level training facilities are similar to those for basic training but are less rigid because of the short duration and narrower scope of the training programs. All in-service programs approved and supported by the Governor's Committee on Crime, Delinquency and Correction must be conducted in adequate and proper facilities. Approval of the Law Enforcement Training Subcommittee of all such locations is required if financial support or credit to maintain certification standards is expected. When financial support or certification credit is not requested, these training standards do not apply.

8.2. The classroom used must comfortably accommodate the maximum number of trainees attending and must be approved by the Law Enforcement Training Subcommittee in advance of the starting date.

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

8.4. Desks or tables shall have smooth, level tops of a width of not less than 20 inches. Tablet arm chairs, if used, must be of such size as to comfortably permit note taking.

8.5. Artificial lighting shall be such as to provide good visibility under normal environmental conditions. Day lighting shall be controllable by dark drapes or shades to permit the use of audio visual training aids.

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

8.7. 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 must be provided if needed.

8.8. Display surfaces and chalk boards shall be sufficient in size and so positioned as to permit adequate viewing by trainees seated in the rearmost used area of the classroom.

8.9. The classroom must be equipped with a lectern of some type and sufficiently large enough to accommodate lecture materials.

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

8.11. Separate restrooms for both sexes must be available.

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

### **§149-2-9. Annual In-Service Curriculum.**

9.1. Annual in-service training funded by the Committee shall consist of eight (8) classroom hours, exclusive of firearms refresher training and qualification.

9.2. It shall be the responsibility of each law enforcement agency to require, at a minimum, semi-annual firearms qualifications of all its members, one of which will be a night firing for qualification.

9.3. To qualify for funding and/or credit for continued certification, all curricula shall be approved in advance by the Governor's Committee on Crime, Delinquency and Correction.

9.4. The training must be given in two (2) hour minimums; Provided that, exceptions may be granted by the Committee in advance.

9.5. Subject matter will include the majority of subjects included in the basic training curriculum or other subjects of a specialized nature. Successful completion is required of all nonexempt personnel. It may be carried out in one (1) or more of the following manners:

9.5.1. Through a common curriculum developed by the Governor's Committee on Crime, Delinquency and Correction and conducted on a statewide basis.

9.5.2. Through regionally developed curricula with programs conducted at locations within the regions.

9.5.3. Through curricula developed and programs conducted by the larger agencies within an area for their own needs but which the smaller agencies in the area can attend.

9.5.4. Through curricula developed by an agency addressing the agency's particular needs, or the needs of units within the agency, and to be attended primarily or entirely by the agency's personnel.

9.6. Requests for training funds and/or curricula approved shall, in addition to the curricula, list the program objectives, the names, titles and agencies of the instructors, the date and time scheduled, the facility at which the training will be conducted, and the name, title and agency of the person in charge of the training.

9.7. Regulations of the host agency will govern the conduct of the training program; however, each officer is required to attend and complete the full eight (8) hour program and, if examinations are given, a grade of not less than seventy percent (70%) must be obtained if credit is to be given.

#### **§149-2-10. Biennial In-Service Supervisory Training.**

10.1. Under the law, only sergeants and those above the rank of sergeant are recognized as exempt rank. First-level supervisors in the State Police and in several sheriffs' departments hold the rank of corporal, and personnel of this rank are required to take annual in-service training. They may, at the discretion of the head of their law enforcement agency, also attend the biennial in-service supervisory training.

10.2. Supervisory level in-service training shall consist of a minimum of eight (8) classroom hours, exclusive of firearms refresher or qualification courses.

10.3. It shall be the responsibility of each law enforcement agency to require, at a minimum, annual firearms qualification for all its members.

### **§149-2-11. Supervisory Training Curriculum.**

11.1. The curricula for supervisory personnel may include subject matter that is applicable to annual in-service training, or the supervisors may wish to voluntarily attend annual in-service classes.

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

### **§149-2-12. Staffing.**

12.1. Instructors in all in-service training where training funds or certification credit is desired shall meet the standards established by the Governor's Committee on Crime, Delinquency and Correction for certification.

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

13.1. The certification of each law enforcement officer is reviewed annually following the first certification and until such time as the officer achieves exempt rank (sergeant or above).

13.2. Certification may be revoked or not renewed if any law enforcement officer fails to attend annually an in-service training program, or if an officer of exempt rank fails to attend biennially an approved in-service supervisory level training program.

13.3. It is the responsibility of the Governor's Committee and the head of each West Virginia law enforcement agency to ensure employee compliance with the law.

13.4. The Governor's Committee must receive pertinent information from law enforcement agencies, basic training academies and individual officers. Law enforcement agency heads shall provide within ten working days written notice of employment or termination of employment of officers in their department, giving full name and social security number, written notice of the status of annual in-service and supervisory in-service training, listing the name or names of anyone failing to meet the Governor's Committee requirements, and notification of the results of annual firearms qualification which shall include the full name and social security number of anyone failing to qualify with sidearms.

13.5. Individual officers successfully completing a basic entry level training program must make written application to the Governor's Committee requesting certification.

13.6. Individual officers beginning employment after July 1, 1981, who are certifiable via the equivalent certification provision of the law must make application to the Governor's Committee for certification within ninety (90) calendar days of their date of employment.

13.7. The Director of the State Police Academy or other basic training academies are requested to promptly provide the names of officers and their agencies successfully completing or failing to complete the basic training program.

**§149-2-14. Equivalent Certification.**

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

14.1.1. Have completed a Peace Officers Standards and Training Commission approved basic entry level training program.

14.1.2. Have been certified as a law enforcement officer in the state where basic entry level training was completed.

14.1.3. Have left full-time employment of at least one year as a law enforcement officer within the last twenty-four (24) months.

14.1.4. Have never been convicted of any felony or misdemeanor involving moral turpitude or of sufficient number as to establish a general disregard for the law.

14.1.5. Have made application for certification within ninety (90) calendar days of their date of employment via the equivalent training provision of the law.

14.1.6. Complete the following basic entry level courses on a part-time basis within twelve (12) months from the date of employment.

14.1.6.a. Firearms Training and Certification.

14.1.6.b. Defensive Driving.

14.1.6.c. Mechanics of Arrest.

14.1.6.d. Law of Arrest, Search and Seizure.

14.1.6.e. West Virginia Motor Vehicle Law.

14.1.6.f. Criminal Law.

14.2. Equivalent certification applicants to a basic entry level training academy must render an acceptable medical examination and complete the physical fitness testability at the 40th percentile for entry into those required classes.

14.3. Applicants for equivalent certification by prior arrangement with the academy may test for credit any of the classes required for certification. If applicable, the applicant must pass both written and practical tests at the academy standard for credit.

### **§149-2-15. Recertification Requirements**

15.1. Police officers who have been separated for not more than twenty-four (24) months from a law enforcement agency, who were certified under the provisions of ~~Chapter 30, Article 29, Section 5, of the West Virginia Code, W. Va. Code §30-29-5~~ and may be reappointed as a police officer by a law enforcement agency, will not be required to meet entrance level standards again if:

15.1.a. Within thirty (30) days from the date of employment the officer attends and completes the mandated in-service training for the period and rank.

15.1.b. Within thirty (30) days from the date of employment the officer qualifies with his firearm.

15.2. Police officers who have been separated for more than twenty-four (24) months from a law enforcement agency in good standing, and were certified under the provisions of W. Va. Code §30-29-5, and have been reappointed as a police officer by a law enforcement agency, will be required to attend and successfully complete at the next available basic training class, or no more than twelve (12) months from date of employment, the following:

15.2.a. Firearms Training and Certification.

15.2.b. Defensive Driving.

15.2.c. Mechanics of Arrest.

15.2.d. Law of Arrest, Search and Seizure.

15.2.e. West Virginia Motor Vehicle Law.

15.2.f. Criminal Law Update.

15.3. Recertification applicants to a basic entry level training academy must render an acceptable medical examination and complete the physical fitness testability at the 40th percentile for entry into those required classes.

15.4. Applicants for equivalent certification by prior arrangement with the academy may test for credit any of the classes required for recertification. If applicable, the applicant must pass both written and practical tests at the academy standard for credit.

15.5. Absent from law enforcement for the purpose of this rule means when an officer does not physically perform the functions of an entry level law enforcement as defined in W. Va. Code §149-2-7.1. and during such time has not maintained continuing training. Non-performance of duties will include any absence from duty without regard for the reason for leave, or legal remedies or status available to the officer concerning their employment. Such 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.

**§149-2-16. Certification Denial.**

16.1. The Governor's Committee on Crime, Delinquency and Correction, upon the recommendation of the Law Enforcement Training Subcommittee, may suspend, revoke, or deny certification of a law enforcement officer:

16.1.1. Who was convicted by any state or by the federal government of any crime the punishment for which could have been imprisonment in a federal or state prison or institution;

16.1.2. Who was convicted of or pleaded guilty to or entered a plea of nolo contendere to any felony charge or to any violation of any federal or state laws or city ordinances, or misdemeanors of a sufficient number or severity to establish a pattern of disregard for the law;

16.1.3. Who was found to have supplied or acquiesced in false information being supplied to the Governor's Committee on Crime, Delinquency and Correction, Law Enforcement Training Subcommittee, or hiring authority; or

16.1.4. Who fails to participate in mandated in-service training required for rank.

KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

JAN CASTO  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
Corporations: (304) 558-8000  
FAX: (304) 558-0900



**STATE OF WEST VIRGINIA**

**SECRETARY OF STATE**

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

PENNEY BARKER  
Supervisor, Corporations

(Plus all the volunteer  
help we can get)

November 17, 1997

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE  
Nov 18 8 38 AM '97  
FILED

**NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE**

**AGENCY:** Governor's Committee on Crime Delinquency & Correction

**RULE:** Amendments, Series 2, Basic Training Academy, Annual In-Service and Biennial In-Service Training Standards

**DATE FILED AS AN EMERGENCY RULE:** October 1, 1997

**DECISION NO. 13-97**

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule is **approved**. A copy of the complete decision with required findings is available from this office.

  
KEN HECHLER  
Secretary of State

KEN HECHLER  
Secretary of State

MARY P. RATLIFF,  
Deputy Secretary of State

JAN CASTO  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
Corporations: (304) 558-8000  
FAX: (304) 558-0900



## STATE OF WEST VIRGINIA

### SECRETARY OF STATE

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

PENNEY BARKER  
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### EMERGENCY RULE DECISION (ERD 13-97)

AGENCY: Governor's Committee on Crime, Delinquency and Correction  
RULE: Amendments, Series 2, Basic Training Academy, Annual In-Service and Biennial In-Service Training Standards  
FILED AS AN EMERGENCY RULE: October 1, 1997

- par. 1 The Governor's Committee on Crime, Delinquency and Correction (Committee) has filed the above amendments to an existing rule as an emergency rule.
- par. 2 West Virginia Code 29A-3-15a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.
- par. 6 The Committee filed this emergency rule with supporting documents with the Secretary of State October 1, 1997 and with the LRMRC October 1, 1997.

par. 7 It is the determination of the Secretary of State that the Committee has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code 30-29-3 reads in part:

*Promulgate standards governing the qualification of law-enforcement officers and the entry level law-enforcement training curricula.*

par. 9 It is the determination of the Secretary of State that the Committee has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency -- WV Code 29A-3-15(f) defines "emergency" as follows:

*(f) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.*

par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by the Committee are as follows:


The Law Enforcement Training Subcommittee of the Governor's Committee on Crime, Delinquency and Correction's legislative rule promulgated during the 1997 term of the legislature had sections under Recertification Requirements inadvertently left out (149-2-15.2 through 149-2-15.3). This portion of the rule is used on a routine basis to provide guidelines to returning officers for their requirements for recertification and it was not the intention of the Subcommittee to eliminate them. This section pertains to the training requirements for officers who have been certified and absent from law enforcement for a period of more than 24 months. The emergency is created by current regulation that does not contain this section. It allows an officer who had been certified under the provision of §30-29-5 and who has been absent from law enforcement for a period of time from 24 months to 16 years to return to active police duty without meeting prerequisite requirements for physical abilities, skills or knowledge training prior to, or while performing, law enforcement duties.

Additional revisions to the legislative rule are as follows:

- Revises the definitions to conform to current code
- Reinforces the 90 calendar day training application requirement period, defines an academy application, and provides for a provision for an extension to the 90 day requirement
- Defines for the purpose of this rule the following:
  - Ø scholastic failure
  - Ø non-enforcement position
  - Ø absent from law enforcement
- Provides a trainee will be paid for 40 hour work week while attending a basic entry level training program
- Provides a time period for which the passage of the physical ability test will be valid and the consequences for the voluntary withdraw of an applicant by his/her agency prior to the start of an academy class
- Provides that an officer who fails to participate in a physical ability testing program on the assigned date without an excused absence will have this failure to participate counted as a failure of the test.

par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in §29A-3-15(f). . . "prevent substantial harm to the public."

par. 14 This decision shall be cited as Emergency Rule Decision 13-97 or ERD 13-97 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the Governor's Committee on Crime, Delinquency and Correction, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER  
Secretary of State

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Nov 18 8 38 AM '97

FILED

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