

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

FILED

2010 JUL 23 AM 11:30

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

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

CITE AUTHORITY: Statutory W. Va. Code 30-29-3

AMENDMENT TO AN EXISTING RULE: YES NO


IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: Law Enforcement Training Standard

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature
Mr J Norbert Federspiel
Executive Director

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Law Enforcement Training Standard

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

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

Address: Division of Justice and Community Services
1204 Kanawha Boulevard East
Charleston, WV 25301

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 as a result of the changes that are being proposed.

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 Standard CSR 149-2

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.

There will be no impact on the costs and revenue of state government as a result of the changes that are being proposed.

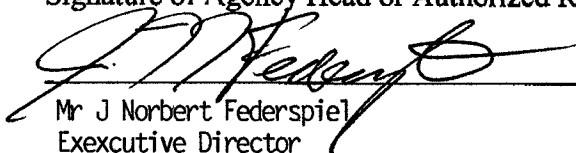
MEMORANDUM

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.

There will be no impact on the costs and revenue of state government as a result of the changes that are being proposed.

Date: July 23, 2010

Signature of Agency Head or Authorized Representative


Mr J Norbert Federspiel
Exexecutive Director

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

June 7, 2010

- 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 Training (LET) Coordinator
Division of Justice and Community Services (DJCS)
1204 Kanawha Boulevard East
Charleston, WV 25301

(304) 558-8814, ext 53315 work (304) 539-4664 personal cell
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)

Same as f.

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.

Not required


b. Date of hearing or comment period:

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

d. Attach findings and determinations and reasons:

Attached

To: Legislative Rule-Making Review Committee

From: Retired Captain Chuck Sadler 
Law Enforcement Training Coordinator

Subject: Public Comments Received
Proposed Changes to CSR 149-2

Date: 23 Jul 10

During the public comment period for the proposed changes to CSR 149-2, Law Enforcement Training Standard, law enforcement personnel and agencies were made aware of the proposed changes through distribution through an electronic list serve, consisting of 835 members, and a physical mailing to each law enforcement agency in the state. An additional electronic notice was made by the Executive Director of the West Virginia Sheriff's Association to each of the fifty-five Sheriffs within the state.

As a result of these distributions six (6) emails, comments/inquiries, were submitted to me care of Charles.A.Sadler@wv.gov Each email was responded to by me and copies of the email and my response were provided to the Chair of the Law Enforcement Training (LET) Subcommittee, First Sergeant Curt Tilley, West Virginia State Police, Deputy Director of Training for the West Virginia State Police Academy, (304) 766-5802, ctilley@wvsp.state.wv.us No comments were received by me through the U. S. Mail.

A summary of the comments is provided on the attached page which lists the individual making the contact, his comment and the response, and when applicable the action considered by the LET Subcommittee. As a result of these comments no changes in the originally proposed changes to CSR 149-2, Law Enforcement Training Standard, legislative rules were made. It remains the position of the LET Subcommittee members, the committee of the Governor's Committee on Crime, Delinquency and Correction tasked with implementation and oversight of the rules, that the recommended changes should be made as set forth so as to best allow for the rules to state the intent and purpose of the applicable sections of West Virginia Code 30-29, et al, as it covers the training and certification of law enforcement officers in this state.

Any questions concerning the proposed changes may be directed to First Sergeant Tilley or myself at (304) 558-8814, ext 53315 or Charles.A.Sadler@wv.gov



**Proposed Changes to CSR §149-2
Law Enforcement Training Standard
Summary of Emailed Comments & Actions Taken**

Prepared by: Retired Captain Chuck Sadler
Law Enforcement Training (LET) Coordinator
Division of Justice and Community Services
(304) 558-8814, ext 53315
Charles.A.Sadler@wv.gov

Emailed comments and responses attached.

1. Chief Tim Stover, Lewisburg Police Department, emailed 7 Jun 10

Comment as to concern as to proposed change to require a period of separation of at least four (4) months between the required firearms qualifications for agencies and officers. Concern expressed over the scheduling, manpower and cost issue with such a separation. Response provided that the proposed change will better insure that the original intent of the rule requiring semi-annual firearms qualifications is met, that being that officers qualify at least two times a year. As reflected by Chief Stover's comment and in the proposed change agencies had moved to completing these qualifications in a one day period, separated by a matter of hours, not days. It is the position of the Law Enforcement Training (LET) Subcommittee members that the proposed change will insure the skills demonstrated/taught in firearms qualifications will be better retained through a separation in months between such qualifications.

2. Captain Glenn Stevens, Charles Town Police Department, emailed 7 Jun 10

Comment as to the proposed language addressing the minimum course of fire, as to distances at which the officers will fire, and on the approved targets that agencies could use in firearms qualifications. Response provided that the wording as proposed will not limit an agency as to having an officer fire at further distances if their agency needs warrant it. The subcommittee members on review of the language do not feel that it limits the ranges which may be used. The inquiry as to type of targets to be approved was responded to as well as to the LET Subcommittee's belief that it is not necessary in the legislative rule to list, or describe, approved targets, that the agencies will submit samples for review and approval by the subcommittee.

3. Lieutenant Thomas Mitchell, Wheeling Police Department, emailed 11 Jun 10

Question as to the requirement of the proposed adoption of a 75% passing score or firearms qualification based on current course of fire they use. Responded that he proposed rule if adopted would be applicable to their officers as to setting a passing score of 75% based on how they grade their hits and target type.

4. Officer T R Queen, Weights and Measurement Enforcement Section of the Public Service Commission, emailed 14 Jun 10

Comment as to supporting the proposed adoption of a passing score of 75% for firearms qualifications in that he has been seeking such a requirement at his agency.

5. Chief Barry Sublesky, Charles Town Police Department, emailed 16 Jun 10

Comment and questions in email and call as to clarifying the time period in which the training year is set as to number of qualifications required and the separation between each. Recommendation as to adding a retired officer qualification standard to the legislative rule. Responded that the training year will still be running July 10th of one year to July 9th of the following year for both in-service classes and firearms qualification requirements. Gave examples of how agencies can still easily address the existing requirement of a minimum of two qualifications separated by four (4) month period and addressed the subcommittee's logic in setting that minimum separation period. As to the recommendation of the setting of a retired officer qualification standard in the rule advised that it had been the preference of the LET Subcommittee that such decisions as to retiree qualifications in line with the federal handgun carry legislation remain under the purview of each agency and that the primary focus of the legislative rule as to training requirement would be on actively employed officers.

6. Chief Michael Younger, Cameron Police Department, emailed 16 Jun 10

Question about the proposed change reflecting language of "unmodified service weapon." Responded to his question by explaining what the terms meant as to a duty weapon that was not changed solely for qualification purposes to fire a lesser load as to the rounds used. The weapon was to carry and fire the same type duty rounds during qualification that the officer would be carry during his regular duty activities.

To: West Virginia Law Enforcement Agencies

From: Retired Captain Chuck Sadler
Law Enforcement Training Coordinator

Subject: Proposed Legislative Rules Changes
Law Enforcement Training Standards
Title 149, Series 2, et al

Date: 7 Jun 10

Proposed changes to the legislative rules addressing Law Enforcement Training Standards, Title 149, Series 2, et. al., have been filed the West Virginia Secretary of State's Office. A public comment period is now open until 5 p.m. on 15 Jul 10.

These proposed changes are being prepared to be submitted to the members of the 2011 Session of the West Virginia Legislature for approval. These changes were discussed and approved for filing by the members of the Law Enforcement Training (LET) Subcommittee, a subcommittee of the Governor's Committee on Crime, Delinquency and Correction during a meeting they held on 27 and 28 May 10.

The proposed changes and a copy of the statement of the facts and circumstances which address why the subcommittee members are proposing the changes filed will be available from me at the below contact information. The primary changes being recommended are as follows:

1. Allowance for up to 25% of required in-service, four (4) hours for officers below Sergeant and six (6) hours for officers Sergeant and above, to be completed through pre-approved web based (on-line) training programs.
2. That as to firearms qualifications that:
 - a. There will be a minimum of a four (4) month period in separation between the completion of the day light and low light semi-annual qualification requirement.
 - b. That each handgun qualification will be with the officer's unmodified primary service handgun on a course of fire requiring a minimum of thirty-two (32) rounds on a LET Subcommittee approved target at ranges between the three (3) to fifteen (15) yard line.
 - c. That the minimum passing score for each such qualification shall be seventy-five (75%) percent.



3. That with the change to have officers participating in the equivalent certification and re-certification program as to these classes now being presented in a block of training each September that the subcommittee may grant a waiver to the one year requirement that these classes be completed from the employment date of the officer.

The other changes being recommended are grammatical and procedural in nature to allow the rules be current with the accepted practices related to the training and certification of law enforcement officers in West Virginia.

In addition to these proposed changes the subcommittee members are asking that the organizations represented by the members of the subcommittee propose and support legislation that will allow individuals who have resigned from the Academy for personal related reasons be allowed, after a two year period from the resignation, be once again be employed as sworn officers in the state and be able to enter the Academy as such. Currently such individuals may not be employed again as a sworn officer until they petition that LET Subcommittee to attend the Academy as a private citizen, receive such approval, and then complete the Academy.

Any comments concerning these proposed rule changes must be submitted in writing to me care of the following address by 5 pm on 15 Jul 10:

Retired Captain Chuck Sadler
WV DCJS
1204 Kanawha Boulevard East
Charleston, WV 25301

Any questions concerning these proposed changes should be directed to me at 558-8814, ext 53315 or Charles.A.Sadler@wv.gov

Division of
**CRIMINAL
JUSTICE
SERVICES**
Department of Military Affairs
& Public Safety

23 Jul 10

Chief Tim Stover
Lewisburg Police Department
119 Preston Boulevard
Lewisburg, WV 24901

Re: Public Comment Concerning
Proposed Changes to CSR§149-2

Dear ~~Chief~~ Stover:

While I had responded to when you emailed your comment as to your concern about the proposed changes to Legislative Rules §149-2, specifically the required separation period recommended between required semi-annual qualification, I wanted to take this opportunity to let you know that your public comment has been made a part of the information submitted to the Secretary of State's Office and the Legislative Rule Making Committee. As well your email was provided to the members of the Law Enforcement Training (LET) Subcommittee to make them aware of your concern.

At this time the proposed change you addressed has been left in rule as originally recommended due to their belief, as indicated to you in my original email response to you, that the value of insuring that officers get more exposure to the handling of their firearms during the separated qualification periods outweighs the concerns that you addressed.

Thank-you again for bringing this concern to the attention of the LET Subcommittee through your response during the public comment period. As always please do not hesitate to get with me if you have any additional questions concerning these proposed changes at (304) 558-8814, ext 53315 or Charles.A.Sadler@wv.gov.

Sincerely,



Chuck Sadler
Law Enforcement Training Coordinator

cc: LET Subcommittee members by agenda mailing
West Virginia Secretary of States Office
Legislative Rule Making Committee



Comment # 1
Chief Tim Stover
Lewisburg Police Dept.

Tim:

Thanks for noting your concern, it will be made part of the comment section. The issue of costs, scheduling, etc is a valid one. As we moved to getting all depts qualifying also wanted to insure that those officers who never fire, except when they are required to be at the range for qualification, get at least two exposures to range firing/qualification under the oversight of a range officer, those times being more spread out so as to increase the chances that their firearms training/skills will be with them should they have to fire their weapons in the line of duty.

Chuck

Retired Captain Chuck Sadler
Law Enforcement Training (LET) Coordinator
Division of Criminal Justice Services
1204 Kanawha Boulevard East
Charleston, WV 25301

(304) 558-8814 ext 214
(304) 558-0391 (fax)

Charles.A.Sadler@wv.gov

For information on training related issues/matters please visit the Division's website at www.dcjs.wv.gov go to the Law Enforcement Training Page. From that page you may access the Officer Training Information System (OTIS), where officers may check their current certified classes completed, or you may go to a listing of all currently approved in-service classes scheduled.

From: Tim Stover [mailto:TStover@lewisburg-wv.com]
Sent: Monday, June 07, 2010 2:43 PM
To: Sadler, Charles A
Subject: Re: Proposed changes to Legislative Rules CSR 149-2 Training and Certification of WV Officers

Chuck,

If I am understanding the concept correctly, I have a little heartache with the four month time frame between lowlight and regular firearms training. Small departments like mine who use an outside instructor and range, it is alot easier manpower wise and for scheduling to do it all in one session. I think I probably know the reasoning behind this but I would like to register my objection---Thanks ---Tim

-----Original Message-----

From: "Sadler, Charles A" <Charles.A.Sadler@WV.GOV>
To: LETL@LISTSERV.WVNET.EDU

Date: Mon, 7 Jun 2010 11:11:44 -0400

Subject: Proposed changes to Legislative Rules CSR 149-2 Training and Certification of WV Officers

7 Jun 10

As reflected in the attached memo the members of the LET Subcommittee have reviewed the legislative rules addressing law enforcement training and certification standards, CSR 149-2, et al, Law Enforcement Training Standard, and are recommending the changes reflected in the attached rules. With the filing of the proposed changes with the West Virginia Secretary of State's Office there is now a 30 day public comment period in effect. Any comments that you would want to make must be filed in writing as reflected in the memo to me at the below address.

Please do not hesitate to get with me if you have any questions about the recommended changes or the process to get the changes approved during the 2011 Session of the West Virginia legislature. The changes approved during that session would go into effect in June of 2011.

Chuck

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Law Enforcement Training (LET) Coordinator
Division of Criminal Justice Services
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Charleston , WV 25301

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Sadler, Charles A

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Division of Criminal Justice Services
1204 Kanawha Boulevard East
Charleston , WV 25301

(304) 558-8814 ext 214
(304) 558-0391 (fax)

Charles.A.Sadler@wv.gov

6/8/2010

23 Jul 10

Captain Glenn Stevens
Charles Town Police Department
114 West Liberty Street
Charles Town, WV 25414

Re: Public Comment Concerning
Proposed Changes to CSR§149-2

Dear ~~Captain~~ ^{Glenn} Stevens:

While I had responded to when you emailed your comment as to your question about the proposed changes to Legislative Rules §149-2, specifically the proposed setting of a minimum course of fire as to rounds and distances, I wanted to take this opportunity to let you know that your public comment has been made a part of the information submitted to the Secretary of State's Office and the Legislative Rule Making Committee. As well your email was provided to the members of the Law Enforcement Training (LET) Subcommittee to make them aware of your concern.

At this time the proposed change you addressed has been left in rule as originally recommended. As I had noted to you in my original response the proposed minimum course of fire will in no way cause your agency, or other West Virginia law enforcement agencies to have a extensive or challenging course of fire to determine your officer's proficiency in handling their firearms.

Thank-you again for bringing this concern to the attention of the LET Subcommittee through your response during the public comment period. As always please do not hesitate to get with me if you have any additional questions concerning these proposed changes at (304) 558-8814, ext 53315 or Charles.A.Sadler@wv.gov.

Sincerely,



Chuck Sadler
Law Enforcement Training Coordinator

cc: LET Subcommittee members by agenda mailing
West Virginia Secretary of States Office
Legislative Rule Making Committee





Commut # 2
Captain Glenn Stevens

**CITY of CHARLES TOWN
POLICE DEPARTMENT**

Monday June 7, 2010

Re: Legislative training standards – firearms qualifications

Capt. Sadler,

My only concern would be that #2 b. may be construed to mean that the course of fire for qualifications is limited to a maximum range of 15 yards. I would like to see a little more included in the description. I.e: at a minimum part of the qualification course of fire will contain at least 32 rounds fired within the 3 to 15 yard ranges. While I agree that most police shootings occur at close distances, I believe officers should still be trained to shoot from cover at greater distances (25 yards).

Also it would be nice if a description of LET Subcommittee approved targets could be included.

Thank you,

Capt. G.F. Stevens

Glenn F. Stevens
Captain

114 West Liberty Street
Charles Town WV 25414
Phone 304-725-2714
Fax 304-725-6733

Glenn:

Thanks for your comments on proposed rules changes as to the firearms qualification recommendations. Your recommendations will be looked at in light of what the subcommittee members were seeking to bring about in insuring that West Virginia officers complete their required semi annual qualifications. The intent was certainly not to limit the scope of the qualification stations, but to set a minimum standard. That language will definitely be checked. There was discussion about the types of targets, but a decision made to not "list" them in the rule, but to allow LET Subcommittee to approve. The type and style would be approved by recognized firearms instructors within the state, working with the LET Subcommittee.

Chuck

Retired Captain Chuck Sadler
Law Enforcement Training (LET) Coordinator
Division of Criminal Justice Services
1204 Kanawha Boulevard East
Charleston, WV 25301
(304) 558-8814 ext 214
(304) 558-0391 (fax)
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-----Original Message-----

From: Glenn Stevens [mailto:GStevens@charlestownpolice.com]
Sent: Monday, June 07, 2010 1:52 PM
To: Sadler, Charles A
Subject: Emailing: doc20100607123808

Letter re: training standards for firearms

Sadler, Charles A

From: Glenn Stevens [GStevens@charlestownpolice.com]
Sent: Monday, June 07, 2010 1:52 PM
To: Sadler, Charles A
Subject: Emailing: doc20100607123808

Attachments: doc20100607123808.pdf



doc2010060712380
8.pdf (326 KB)...

Letter re: training standards for firearms

Division of
**CRIMINAL
JUSTICE
SERVICES**
Department of Military Affairs
& Public Safety

23 Jul 10

Lieutenant Thomas Miller
Wheeling Police Department
1500 Chapline Street
Wheeling, WV 26003

Re: Public Comment Concerning
Proposed Changes to CSR§149-2

Dear Lieutenant Miller:

While I had responded to when you emailed your comment as to your question about the proposed changes to Legislative Rules §149-2, specifically the required setting of a minimum passing score of seventy-five (75%), I wanted to take this opportunity to let you know that your public comment has been made a part of the information submitted to the Secretary of State's Office and the Legislative Rule Making Committee. As well your email was provided to the members of the Law Enforcement Training (LET) Subcommittee to make them aware of your concern.

At this time the proposed change you addressed has been left in rule as originally recommended. As I noted to you in my original response while, if adopted, it would require the setting of such a minimum passing score for your officers, it can be in acord with the course of fire that you agency currently uses, based on scoring system implemented by your agency as to determining the officer's capability to hit the target in an area that will result in stopping the offender's actions.

Thank-you again for bringing this concern to the attention of the LET Subcommittee through your response during the public comment period. As always please do not hesitate to get with me if you have any additional questions concerning these proposed changes at (304) 558-8814, ext 53315 or Charles.A.Sadler@wv.gov.

Sincerely,



Chuck Sadler
Law Enforcement Training Coordinator

cc: LET Subcommittee members by agenda mailing
West Virginia Secretary of States Office
Legislative Rule Making Committee



Commut # 3
Lt Thomas Mitchell
Wheeling PD

Tom:

If the proposed rules would be approved as submitted, then whatever is 75% of course fired would be passing. Charleston PD uses a timed course along with shots fired, the combination of the used to determine passing. They would have to have 75% proficiency. If you allow points based on where target hit, say 5 center mass, 4 in body, etc then 75% of total score possible to pass. If your "score" is a hit versus a miss, then would need to be 75 hits or more

Chuck

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From: Thomas Mitchell [mailto:tmitchell@WheelingPD.com]
Sent: Friday, June 11, 2010 10:28 AM
To: Sadler, Charles A
Subject: RE: Proposed changes to Legislative Rules CSR 149-2 Training and Certification of WV Officers

Chuck,
We fire a 100 round course that includes the 25 yard line. Are we required to adopt a 75 score for qualification?

Lt. Thomas H. Mitchell
Wheeling Police Department
304-234-6456

-----Original Message-----

From: Law Enforcement Training List [mailto:LETL@LISTSERV.WVNET.EDU] **On Behalf Of** Sadler, Charles A

Sent: Monday, June 07, 2010 11:12 AM

To: LETL@LISTSERV.WVNET.EDU

Subject: Proposed changes to Legislative Rules CSR 149-2 Training and Certification of WV Officers

7 Jun 10

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6/11/2010

Division of
**CRIMINAL
JUSTICE
SERVICES** 
Department of Military Affairs
& Public Safety

23 Jul 10

Officer T R Queen
Weights and Enforcement Section
Public Service Commission
c/o Anmoore Police Department
P O Box 178
Anmoore, WV 26323

Re: Public Comment Concerning
Proposed Changes to CSR§149-2

Dear ~~Officer Queen~~:

While I had responded to when you emailed your comment as to your comment about the proposed changes to Legislative Rules §149-2, specifically your support of the proposed firearms qualification related changes, I wanted to take this opportunity to let you know that your public comment has been made a part of the information submitted to the Secretary of State's Office and the Legislative Rule Making Committee. As well your email was provided to the members of the Law Enforcement Training (LET) Subcommittee to make them aware of your concern.

At this time the proposed change you addressed has been left in rule as originally recommended. It is the belief of the LET Subcommittee members, supported by your comment, that these changes will better insure that the officers will be better tested as to their proficiency in handling their duty weapon. Those who are having problems, will be more readily identified and can be given the applicable remedial training to address the difficulty they are showing. That will result in them being better prepared, and more safe, to address situations which may arise where they have to use their service weapons.

Thank-you again for bringing this comment to the attention of the LET Subcommittee through your response during the public comment period. As always please do not hesitate to get with me if you have any additional questions concerning these proposed changes at (304) 558-8814, ext 53315 or Charles.A.Sadler@wv.gov.

Sincerely,



Chuck Sadler

Law Enforcement Training Coordinator

cc: LET Subcommittee members by agenda mailing
West Virginia Secretary of States Office
Legislative Rule Making Committee



Sadler, Charles A

Officer TR Queen
PSC

From: Terry Queen [capttrqueen@yahoo.com]

Sent: Monday, June 14, 2010 11:45 AM

To: Sadler, Charles A

Chuck,

I think I'm going to like the changes as it relates to firearms. It's going to mandate a "passing" score, thus requiring departments and agencies to provide additional and/or retraining for officers who are not proficient in their firearms handling skills. I have been pushing for this in the PSC since I've become their lead instructor.

T.R. Queen

TR

Thanks for your comments

Chuck

Retired Captain Chuck Sadler
Law Enforcement Training (LET) Coordinator
Division of Criminal Justice Services
1204 Kanawha Boulevard East
Charleston, WV 25301

(304) 558-8814 ext 214
(304) 558-0391 (fax)

Charles.A.Sadler@wv.gov


For information on training related issues/matters please visit the Division's website at www.dcis.wv.gov go to the Law Enforcement Training Page. From that page you may access the Officer Training Information System (OTIS), where officers may check their current certified classes completed, or you may go to a listing of all currently approved in-service classes scheduled.

From: Terry Queen [mailto:captrqueen@yahoo.com]
Sent: Monday, June 14, 2010 11:45 AM
To: Sadler, Charles A
Subject:

Chuck,

I think I'm going to like the changes as it relates to firearms. It's going to mandate a "passing" score, thus requiring departments and agencies to provide additional and/or retraining for officers who are not proficient in their firearms handling skills. I have been pushing for this in the PSC since I've become their lead instructor.

T.R. Queen

Division of
**CRIMINAL
JUSTICE
SERVICES** 
Department of Military Affairs
& Public Safety

23 Jul 10

Chief Barry Sublesky
Charles Town Police Department
114 West Liberty Street
Charles Town, WV 25414

Re: Public Comment Concerning
Proposed Changes to CSR§149-2

Dear  Chief Sublesky:

While I had responded to when you emailed your comment as to your question and recommendation about the proposed changes to Legislative Rules §149-2, specifically your question about the timing of the required qualification periods in accord with the required separation period and your recommendation to add a section on retiree qualifications, I wanted to take this opportunity to let you know that your public comment has been made a part of the information submitted to the Secretary of State's Office and the Legislative Rule Making Committee. As well your email was provided to the members of the Law Enforcement Training (LET) Subcommittee to make them aware of your concern.

At this time the proposed change you addressed has been left in rule as originally recommended. As I had noted to you in my original response your agency will still be able to schedule the minimum required two qualifications within the training year and that at this time that the LET Subcommittee members feel that the rules should address active officer qualification standards and that each agency can set its requirements as to retiree qualification standards in line with the federal handgun carry legislation by retired officers. I would note that the LET Subcommittee has previously set a policy to provide recommended guidance on this matter as to retired officers whose agency they retired from is not located in West Virginia.

Thank-you again for bringing these comments to the attention of the LET Subcommittee through your response during the public comment period. As always please do not hesitate to get with me if you have any additional questions concerning these proposed changes at (304) 558-8814, ext 53315 or Charles.A.Sadler@wv.gov.

Sincerely,


Chuck Sadler
Law Enforcement Training Coordinator

cc: LET Subcommittee members by agenda mailing
West Virginia Secretary of States Office
Legislative Rule Making Committee



Comment # 5
Chief B Subelsky
Charles Town PD

Barry:

I will pass along your request to the subcommittee members as part of public comments rcvd. It previously has been something that the subcommittee has left to the individual depts as to course of fire that they want retired officers to complete.

Thanks for the suggestion.

Chuck

Retired Captain Chuck Sadler
Law Enforcement Training (LET) Coordinator
Division of Criminal Justice Services
1204 Kanawha Boulevard East
Charleston, WV 25301

(304) 558-8814 ext 214
(304) 558-0391 (fax)

Charles.A.Sadler@wv.gov

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From: Barry Subelsky [mailto:bsubelsky@charlestownpolice.com]
Sent: Tuesday, June 22, 2010 12:36 PM
To: Sadler, Charles A
Cc: Murphy, David E; Mark Debord; Curtis Tilley
Subject: RE: Proposed legislative rules Firearms qualification separation period

Chuck,

While we are at it, can we add a retired officer qual course to meet the requirements of HR 218? That way our retired officers can carry after retirement in and out of the state. Just a thought.
Thanks barry

From: Sadler, Charles A [mailto:Charles.A.Sadler@wv.gov]
Sent: Wednesday, June 16, 2010 5:05 PM
To: Barry Subelsky
Cc: Murphy, David E; Mark Debord; Curtis Tilley
Subject: Proposed legislative rules Firearms qualification separation period

To: Chief Subelsky Charles Town PD

Barry:

Sorry that I missed you call earlier, I had to adjust my schedule the past couple days, but will be in all day for the next two days. There will still only be two (2) firearms qualifications required each training year. The period of four (4) months separation between qualifications was recommended to address fact that there are a number of agencies who complete their two qualifications on the same day, early in day for daylight and then come back in evening after dusk for lowlight. It was the feeling of subcommittee members that this does not help those shooters who do not regularly fire/practice with their duty weapon, basically only fire it twice a year at qualification, to be familiar with their weapons. The period 4 months could be looked at to scenario you mentioned, say if you qualify in July by 15th, four months puts you next qualify for lowlight 15 Nov Or later and it is recognized that weather can be bad then. Majority of agencies qualify in spring, early summer for daylight and fall for lowlight, which puts them still in same training year (10 Jul to 9 Jul next year) and would allow for 4 month separation. They generally don't qualify in summer to avoid scheduling conflicts with vacations.

Chuck


Retired Captain Chuck Sadler
Law Enforcement Training (LET) Coordinator
Division of Criminal Justice Services
1204 Kanawha Boulevard East
Charleston, WV 25301

(304) 558-8814 ext 214
(304) 558-0391 (fax)

Charles.A.Sadler@wv.gov

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Division of
**CRIMINAL
JUSTICE
SERVICES**



Department of Military Affairs
& Public Safety

23 Jul 10

Chief Michael Younger
Cameron Police Department
44 Main Street
Cameron, WV 26033

Re: Public Comment Concerning
Proposed Changes to CSR§149-2

Dear Chief *Mike* Younger:

While I had responded to when you emailed your comment as to your question about the proposed changes to Legislative Rules §149-2, specifically your question about what constituted an unmodified service revolver I wanted to take this opportunity to let you know that your public comment has been made a part of the information submitted to the Secretary of State's Office and the Legislative Rule Making Committee. As well your email was provided to the members of the Law Enforcement Training (LET) Subcommittee to make them aware of your comment.

At this time the proposed change you addressed has been left in rule as originally recommended. As I had noted to you in my original response to you changes to sites, pistol grips, lighting devices, etc. is not the type of modifications that can not be made for a duty weapon to be consider to have been modified. The modifications that would be prohibited by the term "unmodified service weapon" would any change that, for the duration of the qualification period, would decrease the standard velocity/firing capacity of the weapon, i.e. make a .40 caliber weapon fire as if it were a .22 caliber. Such a modification would not give the officer firing the qualification course the true feel of the weapon and therefore would not accurately reflect his or her proficiency in handling/firing the weapon in an actual situation with a full duty load/round in the weapon.

Thank-you again for bringing this question to the attention of the LET Subcommittee through your response during the public comment period. As always please do not hesitate to get with me if you have any additional questions concerning these proposed changes at (304) 558-8814, ext 53315 or Charles.A.Sadler@wv.gov.

Sincerely,


Chuck Sadler
Law Enforcement Training Coordinator

cc: LET Subcommittee members by agenda mailing
West Virginia Secretary of States Office
Legislative Rule Making Committee



Comment # 6
Chief M Younger
Cameron PD

Sadler, Charles A

From: Michael J Younger [CameronChief@comcast.net]
Sent: Thursday, June 17, 2010 11:52 AM
To: Sadler, Charles A
Subject: RE: Legislative Rules Question

Thanks, Chuck

I will get Matt's training info together.

Answers our questions about firearms. Concern was changing sights etc.

Mike

Michael J Younger
Chief of Police
Cameron Police Department
44 Main Street
Cameron, WV 26033
Office 304-686-2213
Fax 304-686-2892
City Clerk's Office 304-686-2366
CameronChief@comcast.net

Please take a moment and check out our new and improved website: www.CameronWV.com

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From: Sadler, Charles A [mailto:Charles.A.Sadler@wv.gov]
Sent: Wednesday, June 16, 2010 4:22 PM
To: CameronChief@comcast.net
Cc: Murphy, David E; Mark Debord; Curtis Tilley; dlee@wvsp.state.wv.us; Gary A. Martin
Subject: RE: Legislative Rules Question

Michael:

Last item first. The equivalent certification classes are now going to be held in a three week block of instruction the last three weeks of September each year at the Academy's Professional Development Center (PDC) That is to help agencies who were having to send officers extended distances to attend one of required classes one day and then come another week, etc. I would need to have his training records reviewed to determine if they meet current legislative rules, main thing being that his certification in Ohio is in good standing and that the entry level trng he completed in Ohio (primary item, can look at in-service classes) totaled a minimum of 800 hours.

Primary issue with the unmodified duty weapon is that is what the officer would be carrying on the street. We have had questions about modifying weapons for range qualification to fire a 22 cal package on a 40 cal weapon, to save costs on rounds and to reduce kickback, etc in qualifying. Officers will have to fire the weapon they carry.

Chuck

Retired Captain Chuck Sadler
Law Enforcement Training (LET) Coordinator
Division of Criminal Justice Services
1204 Kanawha Boulevard East
Charleston, WV 25301
(304) 558-8814 ext 214
(304) 558-0391 (fax)
Charles.A.Sadler@wv.gov

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From: Michael J Younger [mailto:CameronChief@comcast.net]
Sent: Wednesday, June 16, 2010 11:08 AM
To: Sadler, Charles A
Subject:

Hello Chuck,
Just a couple questions about the changes to L/E Training Standards,
Firearms quals, what is the definition of an unmodified service handgun? What is considered a modification?
Can you give me more info about the equivalent cert class for Sept? I am looking at an Ohio Officer I would like to hire.

Thanks, Mike

Michael J Younger
Chief of Police
Cameron Police Department
44 Main Street
Cameron, WV 26033
Office 304-686-2213

6/17/2010

Michael:

Last item first. The equivalent certification classes are now going to be held in a three week block of instruction the last three weeks of September each year at the Academy's Professional Development Center (PDC) That is to help agencies who were having to send officers extended distances to attend one of required classes one day and then come another week, etc. I would need to have his training records reviewed to determine if they meet current legislative rules, main thing being that his certification in Ohio is in good standing and that the entry level trng he completed in Ohio (primary item, can look at in-service classes) totaled a minimum of 800 hours.

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Chuck

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Law Enforcement Training (LET) Coordinator
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Charleston, WV 25301

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Sent: Wednesday, June 16, 2010 11:08 AM
To: Sadler, Charles A
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Thanks, Mike

Michael J Younger
Chief of Police
Cameron Police Department
44 Main Street
Cameron, WV 26033
Office 304-686-2213
Fax 304-686-2892
City Clerk's Office 304-686-2366
CameronChief@comcast.net

Please take a moment and check out our new and improved website: www.CameronWV.com

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

**SERIES 2
LAW ENFORCEMENT TRAINING STANDARDS**

STATEMENT OF FACTS AND CIRCUMSTANCES

The following amendments to 149CSR2 are being proposed:

§149-2-3. Academy Facility Standards

• **3.10.e.**

Added the words "all relevant" and "Code sections" while removing/replacing the words "Motor Vehicle Laws." The words added bring the language of the legislative rules in accord with the proper reference to the West Virginia Code and allow the applicable Academy programs to only have to supply sections of the West Virginia Code for which the student officers have authority to enforce and on which they are trained.

• **3.10.f.**

Removed the word "Pencils" and added/replaced it with the words "Writing instruments." Change made to more accurately reflect the provision of applicable instruments to best allow the student officers to complete their required note taking.

§149-2-4. Academy Staffing

• **4.1.b.**

Added the words "on Crime, Delinquency and Correction." Change made to more accurately identify the Governor's Committee on Crime, Delinquency and Correction of which the Law Enforcement Training Subcommittee (LET) is a committee of and

who has statutory oversight of law enforcement training and certification standards through the applicable sections of West Virginia Code §30-29 et al.

- **4.1.d.**

Removed the words “may be asked to” and replaced them with the word “shall.” Recommended to insure that the Academy Director of Training is required to attend LET Subcommittee meetings to advise the subcommittee members of the status/progress of the entry level training programs being conducted.

§149-2-5. Instructor Certification

- **5.1.a.4.**

Removed the words “skills level” and “training in that particular skill” and added the words “certain” “hours” and “law enforcement training”. Recommended to allow to more accurately identify the subcommittee as the law enforcement training subcommittee and to allow the LET Subcommittee members to more clearly have the authority to require that for certain areas of instructor expertise, for example defensive tactics, DNA identification, etc., that more than sixteen (16) hours of training is required to be approved to teach in that subject area.

- **5.3.a.**

Removed the word “are”, changed the word “exempt” to “exemption” and added the words “may apply for”. Recommended to clarify the ability and standard for the LET Subcommittee members to grant an exemption from the instructor certification process to individuals who otherwise show applicable expertise in the subject area to be taught, when the training is to be taught for a limited duration or a singular occurrence.

§149-2-7. Academy Training Curriculum

- **7.2.**

Removed the words “and care of motor equipment” and added the word “and”. Change made to provide more clear language as to examples of the types of training that is the responsibility of the employing agency to provide.

§149-2-8. Academy Entry Standards

- **8.1.b.**

Removed the word “shall” and replaced it with the word “may”. Recommended to allow the LET Subcommittee members to be able to address those requests for reasonable accommodation that do not require a more detailed review without

having to use the described panel to handle the request. The LET Subcommittee members when applicable will have the authority to direct the accommodation requests that require a more detailed examination to the described panel.

- **8.2.b. and 8.2.d.**

Added the words “Any officer terminated may apply to the law enforcement training subcommittee as a private citizen for training and certification at his or her own expense as provided for in W. Va. Code §30-29-5f.”, by removing them from the existing 8.2.d. 8.2.d. will no longer exist with the recommended change. Recommended so as to place the ability for individuals to apply as a private citizen in the section that is applicable once they have been terminated as a law enforcement officer for failure to timely file the academy application.

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

- **10.1.**

Removed the word “classroom” and added the words “a minimum of” and “A maximum of twenty-five percent (25%) of the training may be web-based provided the training is pre-approved by the law enforcement training subcommittee.” Recommended to allow the officers to complete their required professional development training for maintenance of the law enforcement certification through recognized and pre-approved other methods of instruction delivery beyond standard classroom delivery. In the case of web-based delivery of training sets a maximum percentage, for officers below the rank of Sergeant no more than four (4) hours of such training, that may be used to meet their annual training requirement.

- **10.2.**

Removed the word “its” and added “active” and “All qualifications shall be separated by a minimum period of four (4) months.” Recommended to clarify that the responsibility of each law enforcement agency concerning its active and current members concerning firearms qualification. While they can provide such firearms qualifications to retired department members in accord with federal firearms carry legislation such agencies are not required to. The recommended addition of wording to require a minimum four (4) month separation between firearms qualifications is to insure compliance with the original intent of the drafting of this section of the legislative rule, that being to insure that officers qualify on two separate occasions during the training year.

- **10.2.a.**

Created this new section with the addition of the words “Each handgun qualification shall be with the individual’s unmodified primary service handgun and shall consist of a course of fire requiring a minimum of 32 rounds ranging from the three yard line to the fifteen yard line on a law enforcement training subcommittee approved target.” Recommended to be added to insure that the officer is using his or her duty weapon, that has no modifications that changes the standard firing velocity or characteristics of the weapon, on a course of fire that will adequately test his or her proficiency in firing the weapon in question.

- **10.2.b.**

Created this new section by adding the words “The minimum passing score for qualification shall be seventy-five percent (75%).” Recommended to be added to insure that the officer completes the qualification course at a level that reflects proficiency in the firing of his or her primary service weapon. The seventy-five (75%) level is consistent with the standard for passing for examinations within the entry level training program.

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

- **11.2.**

Added the words “a minimum of” and “A maximum of twenty-five percent (25%) of the training may be web-based provided the training is pre-approved by the law enforcement training subcommittee.” Recommended to allow these officers to complete their required professional development training for maintenance of the law enforcement certification through recognized and pre-approved methods of instruction delivery. For web-based delivery of training completed sets a maximum percentage, for officers the rank of Sergeant and above then no more than six (6) hours of such training, that may be used to meet their bi-annual training requirement.

- **11.3.**

Removes the entire section by removal of words “Is it the responsibility of each law enforcement agency to require, at a minimum, semi-annual firearms qualification of all its members, one of which will be a low light firing for qualification.” This language is not need as the language, current and recommended to be changed, within §149-2-10.2 requires that all active members (officers) of each law enforcement agency qualify semi-annually, one of those being under low light conditions.

- **11.4.**

With the recommended deletion of 11.3 of the existing legislative rules this section then becomes 11.3.

- **11.4.a.**

With the recommended deletion of 11.3 of the existing legislative rules this section then becomes 11.3.a.

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

- **13.5.**

Removed the words “or not renewed” and replaces them with “or suspended”. Recommended to more accurately reflect the action that the LET Subcommittee may take concerning an officer’s certification should he or she not complete required training.

- **13.6.**

Removed the words “failing to qualify” and added the word “semi-“. Recommended to require the reporting of firearms qualification completion of all officers for the tracking of such information within the Officer Training Information System (OTIS), so as to allow for proper determination of this training requirement.

§149-2-14. Equivalent Certification

- **14.1.d.**

Removed the words “basic entry level” and “on a part time basis” and added the words “providing that under extenuating circumstances that the law enforcement training subcommittee may grant a waiver:” Recommended to reflect the classes to be completed as part of this program in line with the current method of delivery of these classes, that being in a three week block of instruction at the Academy. Allows that should circumstances occur that would not allow an officer to complete this required training when it is scheduled, and that the next scheduled three week block is more than one year following his or her employment, that the LET Subcommittee may grant a waiver to allow the completion during the next block of training.

- **14.4.**

Removed the words “then applicable” and added the word “current”. Recommended to clarify the standard of review as to number of hours against

which an individual's training record is evaluated against is the level in place by the legislative rules in place at the time that the review is being conducted. Under the current rules, §149-2-7.1., that number of hours is 800 hours.

§149-2-15. Re-certification Requirements

- **15.3.**

Removed the words "at the next available basic training class, or" and added the words "providing that the subcommittee may grant a waiver under extenuating circumstances. The subcommittee may, at its discretion, require a course be completed and not allow a test for credit." Recommended to reflect the classes to be completed as part of this program in line with the current method of delivery of these classes, that being in a three week block of instruction at the Academy. Allows that should circumstances occur that would not allow an officer to complete this required training when it is scheduled, and that the next scheduled three week block is more than one year following his or her employment, that the LET Subcommittee may grant a waiver to allow the completion during the next block of training. Further allows that the LET Subcommittee members may determine that certain of the courses required for re-certification have skill sets that an officer should be required to participate in the full training class and not be able to test out of the class.

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

- **16.6.**

Removed the words ", may not remained employed as a law enforcement officer and". Remaining language in the rule more clearly states that a law enforcement officer whose certification is suspended, revoked or for an individual who has been denied admission to the entry level training program may not exercise any sworn authority during the period applicable. The employing authority would be the one to decide what employment status the individual would remain in.

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

FILED
2010 JUL 28 AM 11:31

**SERIES 2
LAW ENFORCEMENT TRAINING 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 a basic 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. -- May 8, 2009.

1.4. Effective Date. -- June 25, 2009.

§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 to conduct law enforcement training.

2.2. "Chief executive" means the superintendent of the State Police; the chief conservation officer of the Division of Natural Resources; the sheriff of any West Virginia county; any administrative deputy appointed by the chief conservation officer of natural resources; or the chief of any West Virginia municipal law-enforcement agency.

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

2.6. "Good standing" when referring to a law enforcement officer means any 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.

2.7. "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.

2.8. "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 and those persons employed as rangers by the Hatfield-McCoy regional recreation authority. 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.

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

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

2.11. "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 him or herself in any manner that a reasonable person would perceive him or her to be a law enforcement officer. 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 a basic entry-level training program.

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

2.13. "Subcommittee" or "law enforcement training subcommittee" means the subcommittee of the Governor's Committee on Crime, Delinquency and Correction.

2.14. "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 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 basic class funded by the law enforcement training subcommittee is twenty-five (25) officers.

3.3.b. Artificial and/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 area of 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/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 and/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 and/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. Restrooms. -- Separate restroom facilities of sufficient size and number to accommodate the needs of both sexes shall be provided in close proximity to the classroom.

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

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

3.10.a. Ammunition for firearms training;

3.10.b. Notebooks (three ring binders) in a sufficient number to accommodate all notes and handout materials;

3.10.c. Notebook indexes in a sufficient number to permit indexing of each individual notebook;

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

3.10.e. A current copy of all relevant West Virginia Motor Vehicle Laws Code sections;

3.10.f. ~~Pencils~~ Writing instruments in a sufficient number to permit taking of detailed notes throughout the duration of the training program;

3.10.g. A copy of the course schedule;

3.10.h. A copy of the rules governing operation of the training facility; and,

3.10.i. Handout materials required by the instructors.

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

3.11.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.

3.11.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.

3.12. 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 (Training Officer).

4.1.a. Appointment. -- The appointment of a 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 head of the department may make the appointment under which the training will be provided.

4.1.b. Approval. -- The Director of Training of an academy other than the state police academy shall be approved by the Governor's Committee on Crime, Delinquency and Correction, based on a composite assessment of the candidates' education, training, administrative and law enforcement experience.

4.1.c. Responsibilities. -- The Director of Training 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 a basic 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 of Training is accountable to the appointing authority for the operation of the training academy or program in compliance with the sponsor's policies and regulations relating to it. In a limited sense, the Director of Training has the responsibility of keeping the Law Enforcement Training Subcommittee informed regarding the training program. Normally this will be accomplished through progress reports. However, the Director of Training ~~shall may be asked to~~ appear before the subcommittee to discuss the training program and make recommendations regarding it.

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 of Training.

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 Instructor Certification.

5.1.a. Standards. -- All law enforcement instructors' certifications shall be valid for four (4) years provided 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 in each academic subject area in which certification is desired; provided that certain skills-level training may require additional hours training in that particular skill as required by the law enforcement training 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 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 instructor certification.

5.1.c. Inactive Certification Status. -- Instructors placed on inactive status by the law enforcement training subcommittee must, within twenty-four (24) months of such placement, attend an eight (8) hour teaching update program; or teach eight (8) hours in a Committee approved program under the direct supervision of an active, certified instructor. The Subcommittee shall rescind the instructor certification for failure to obtain or perform one (1) of the above in the time periods described.

5.2. Firearms Instructor Certification.

5.2.a. Standards. -- Firearms instructors, in addition to qualifications required for law enforcement instructors set forth in Section 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 Governor's Committee on Crime, Delinquency and Correction.

5.2.b. Maintenance of Certification. -- In order to keep their certifications active, 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 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 instructor certification date.

5.2.c. Inactive Certification Status. -- Firearms instructors placed on inactive status by the law enforcement training subcommittee shall within twenty-four (24) months from date of original instructor certifications, attend a teaching update program or teach in a department recognized firearms program under the direct supervision of an active firearms instructor. The Subcommittee shall rescind the instructor certification for failure to obtain or perform one of the above in the time periods described.

5.3. Waiver of Standards for Certain Individuals.

5.3.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, may apply for an exemption from the certification process.

5.3.b. 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 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.

5.4. Validity of Certification. -- Law Enforcement Instructor Certification is valid for a period of forty-eight (48) months from the date of approval for instructors on active status.

5.5. Revocation. -- 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:

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

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

5.5.c. 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,

5.5.d. For falsified or omitted information on any necessary paperwork required by the Law Enforcement Training Subcommittee.

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

§149-2-6. Training Academy Policies.

6.1. Attendance. -- An officer shall attend all classes and class functions, to include all items listed in the course curriculum, unless excused by the Director of Training. 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. Audits. -- Law enforcement officers may audit classes if space is available.

6.3. Grades. -- The minimum passing grade on an examination is seventy-five percent (75%) and an officer shall maintain an academic average of seventy-five percent (75%) for graduation and certification. Students 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 that will be recorded on the individual's class record. Provided that students will be allowed to retake a maximum of two (2) separate failed examinations during the course of the program. Any student failing to pass after the second examination shall be dismissed as a scholastic failure. Students will be given three (3) attempts to successfully complete all skills examinations. Any student 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 or extended illness is at the discretion of the Director of Training.

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

6.5.a. Written notice via U. S. Postal Service will be provided by the Academy Director or the Director of Training to the head of the agency employing the dismissed officer. A copy of the written notice will also be provided to the affected officer and to the Executive Director of the Governor's Committee on Crime, Delinquency and Correction.

6.5.b. Any person dismissed for reasons other than scholastic failure may appeal the dismissal. The initial appeal shall be to the head of the agency or department sponsoring the training. If 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 workweek 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 live-in basic training academy may be paid by the Governor's Committee on Crime, Delinquency and Correction.

6.7.b. The subcommittee, upon submission of grant application, will review other costs.

§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 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, ~~and care of motor equipment~~ 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 Governor's Committee on Crime, Delinquency and Correction. Recommendations for change shall be made in writing to the committee.

§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.

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 ~~shall~~may be reviewed by a panel of at least four (4) people appointed by the Chairman of the Law Enforcement Training 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 law enforcement officers shall apply for admission to a basic 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.

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.

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

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.

~~8.2.d. Any officer terminated may apply to the Subcommittee as a private citizen for training and certification at his or her own expense as provided for in W. Va. Code §30-29-5f.~~

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 training, an entry-level officer should be able to perform the following essential functions:

8.3.a. Arrest and Detain Persons. -- In arrest and detention, an entry-level 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/or make proper their return;

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 entry-level 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 (35mm/video camera, etc.);
 - 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 DUI/Traffic Laws. – In enforcement of DUI/Traffic laws, an entry-level 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 roadside sobriety tests;
 - 8.3.c.4. Fill out a 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;

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- 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. Assist trapped persons;
- 8.3.c.13. Direct a moving vehicle out of a line of traffic to execute a vehicle stop; and
- 8.3.c.14. Stop vehicles to arrest, cite or warn occupants.
- 8.3.d. Operate Patrol Vehicle. -- In operating a patrol vehicle, an entry-level 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 entry-level officer may:
 - 8.3.e.1. Obtain warrants and/or make proper return;
 - 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 a movable automobile under independent probable cause;
 - 8.3.e.7. Search persons in accordance with a court order (e.g., blood sample, hair sample);
 - 8.3.e.8. Search premises or property incident to an arrest;
 - 8.3.e.9. Search premises or property in hot pursuit or emergency situations;
 - 8.3.e.10. Search premises or property with consent;
 - 8.3.e.11. Search premises or property with a warrant;
 - 8.3.e.12. Seize contraband; and
 - 8.3.e.13. 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 entry-level

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. Tackle a fleeing suspect;
 - 8.3.f.5. Physically subdue an attacking person;
 - 8.3.f.6. Use weaponless defense tactics;
 - 8.3.f.7. Subdue a person resisting arrest;
 - 8.3.f.8. Use body pressure points to control a person;
 - 8.3.f.9. Disarm a violent armed suspect;
 - 8.3.f.10. Remove a person out of vehicle who is resisting arrest;
 - 8.3.f.11. Strike a person with side-handled baton;
 - 8.3.f.12. Strike a person with straight baton;
 - 8.3.f.13. Use submission holds to control a person;
 - 8.3.f.14. Locate and observe crowd agitators;
 - 8.3.f.15. Patrol riot stricken or civil disturbance areas;
 - 8.3.f.16. Physically restrain a crowd;
 - 8.3.f.17. Catch a falling person to prevent injury;
 - 8.3.f.18. Use body language to project control and influence a situation;
 - 8.3.f.19. Use voice commands to project control and direct actions; and
 - 8.3.f.20. Hold a flashlight in one hand while performing various police duties.
- 8.3.g. Use Deadly Weapons. -- In using deadly weapons, an entry-level 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 (not including training);
- 8.3.g.10. Fire a weapon in daytime combat (not including training);
- 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 entry-level 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. Fire a weapon in a dark environment with flashlight in one hand;
- 8.3.h.14. Pull person out of a vehicle to perform a rescue; and
- 8.3.h.15. 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 entry-level 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 entry-level 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 entry-level 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) drivers license revocation, breath test refusal):

8.3.l. Transport Persons in Custody. -- In transporting persons in custody, an entry-level officer may:

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

8.3.l.2. Search a vehicle for weapons and/or contraband (e.g., before and after prisoner transport).

8.3.m. Conduct Interviews and Interrogations. -- In conducting interviews and interrogations, an

entry-level 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 entry-level 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 Entry-Level Law Enforcement Officers. In performing the essential functions of the job, an entry-level officer may use the following:

- 8.4.a. A roadside preliminary breath test;
- 8.4.b. An automobile;
- 8.4.c. A baton;
- 8.4.d. Body armor;
- 8.4.e. A fire extinguisher;
- 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.

8.5. Medical Standards. -- 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. 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 examination; laboratory tests; 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).

8.5.a. 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.

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

8.5.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.

8.5.d. The examining physician shall note if the applicant has any of the following conditions. These conditions may be cause to exclude an applicant from consideration for acceptance except where specifically noted.

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 and/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 coccidiomycosis 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/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/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.13. Any condition listed in this subsection of the rule that requires further evaluation, beyond that offered by the applicant's physician, shall be conducted at the applicant's expense.

8.6. Physical Ability Standards.

8.6.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/fail screening for admission into a basic entry-level training program.

8.6.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 are established by the Governor's Committee on Crime, Delinquency and Correction.

8.6.c. The three (3) elements of the test battery are designed to confirm the physical ability to perform recruit level training and perform the essential tasks of the entry-level law enforcement officer as listed in this rule. They are not job task simulations, but rather are construct validation of the candidate's capacity to learn and perform essential physical tasks. Applicants shall be given two attempts to obtain the 40th percentile on each test element. Each test element shall be passed before proceeding to the next test element. Any applicant unable to obtain the 40th percentile shall 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 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 a basic entry-level training program.

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

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

8.6.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:

8.6.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

8.6.d.2.B. Using a block of wood, dimensions of which shall be set by the Committee, 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.

8.6.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.

8.6.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.

8.6.f. Applicants who successfully completed all three elements of the physical ability test, whose agencies withhold them from entry into the first scheduled basic 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.

8.6.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 academy 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 basic training but are less rigid because of the short duration and narrower scope of the training programs. All in-service programs approved by the Governor's Committee on Crime, Delinquency and Correction 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 Law Enforcement Training Subcommittee in advance of the starting date.

9.2.b. Artificial and/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) classroom-hours, exclusive of firearms qualification. A maximum of twenty-five percent (25%) of the training may be web-based provided the training is pre-approved by the law enforcement training subcommittee.-

10.1.a. Certified law enforcement instructors may request from the Subcommittee that up to eight (8) hours of annual in-service training credit be received 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. No more than eight (8) hours of in-service training credit may be approved for teaching in a Subcommittee approved in-service training course during an individual instructor's appropriate training period.

10.2. It is the responsibility of each law enforcement agency to require, at a minimum, semi-annual firearms qualifications of all active its members, one of which will be a low light firing for qualification. All qualifications shall be separated by a minimum period of four (4) months.

10.2.a. Each handgun qualification shall be with the individual's unmodified primary service handgun and shall consist of a course of fire requiring a minimum of 32 rounds ranging from the three yard line to the fifteen yard line- on a law enforcement training subcommittee approved target.

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

10.3. 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.

10.3.a. The Governor's Committee on Crime, Delinquency and Correction reserves the right to review and/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 Committee in advance.

10.5. Subject matter shall 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.

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. Under the law, only sergeants and those above the rank of sergeant are recognized as exempt rank.

11.2. Supervisory level in-service training required by the Committee for continued certification shall consist of a minimum of twenty-four (24) classroom hours in a twenty-four (24) month period exclusive of firearms qualification. Eight (8) of the required twenty-four (24) hours shall be in a Committee approved supervisory level in-service training program and sixteen (16) hours of the required twenty-four (24) hours may be in any subject area approved by the Committee. A maximum of twenty-five percent (25%) of the training may be web-based provided the training is pre-approved by the law enforcement training subcommittee.

11.2.a. Certified law enforcement instructors may request from the Subcommittee that up to eight (8) hours of supervisory level in-service training credit be received 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. No more than eight (8) hours of in-service training credit may be approved for teaching in a Subcommittee approved in-service training course during an individual instructor's appropriate training period.

~~11.3. It is the responsibility of each law enforcement agency to require, at a minimum, semi-annual firearms qualification of all its members, one of which will be a low light firing for qualification.~~

11.34. Curriculum for Supervisory In-Service Training.

11.34.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/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 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. Individual officers successfully completing a basic entry-level training program shall make written application to the Governor's Committee requesting certification.

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

13.3. The Director of the training academies shall promptly provide the names of officers and their agencies successfully completing or failing to complete the basic training program.

13.4. The certification of each law enforcement officer is reviewed annually following the first certification and until the officer achieves exempt rank (sergeant or above) by the Governor's Committee and the head of the applicant's employing West Virginia law enforcement agency to ensure employee

compliance with the law.

13.5. Certification may be revoked or suspended ~~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.

13.6. Law enforcement agencies shall provide within ten (10) working days written notice of the employment or termination of employment of officers in their department, giving the officer's full name and social security number. Notification of semi-annual firearms qualification shall include the full name and social security number of officers, ~~failing to qualify~~.

§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 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 or by the federal agency where basic entry-level training was completed;

14.1.c. Have made application for equivalent certification to the law enforcement training subcommittee within ninety (90) calendar days of their date of employment via the equivalent training provision of the law; and,

14.1.d. Complete the following ~~basic entry-level~~ courses ~~on a part-time basis~~ within twelve (12) months from the date of employment providing providing that under extenuating circumstances the law enforcement training subcommittee may grant a waiver.

14.1.d.1. Firearms Training and Certification;

14.1.d.2. Emergency Vehicles Operations Course;

14.1.d.3. Defensive Tactics;

14.1.d.4. Laws of Arrest;

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

14.1.d.6. Criminal Law;

14.1.d.7. Domestic Crimes; and,

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

14.2. Applicants for equivalent certification who have had their certification revoked or suspended by a Peace Officer's Standards and Training Commission, and are ineligible for re-certification from that commission, may not make application for equivalent certification in the State of West Virginia.

14.3. Equivalent certification applicants shall submit a completed and medically acceptable academy application packet which shows they meet the requirements for admission to a basic entry-level training program.

14.4. The Law Enforcement Training Sub-committee 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 then applicable 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 of training of West Virginia State Police Academy approved by the full sub-committee.

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 of an entry-level law enforcement officer as defined in subsection 8.3. of this rule and who have not obtained mandated in-service training as required by subsections 10.1. and 11.2. of this rule or qualified with their weapon as required in Subsection 10.2. and 11.3. 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. 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 firearm.

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; 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 ~~at the next available basic training class, or~~ by no more than twelve (12) months from the date of employment, the following courses providing 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. Within ninety (90) calendar days of their date of employment, re-certification applicants to a basic entry-level training academy shall submit a completed and medically acceptable academy application packet which shows they meet the requirements for admission to a basic entry-level training program.

15.5. 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 basic entry level courses failed by the applicant.

15.6. 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 Revocation.

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 the certification of a law enforcement officer or, if applicable, deny admission to a basic entry-level training program for conduct or a pattern of conduct unbecoming to an officer or activities that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement. Such conduct, pattern of conduct, or activities 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;
- 16.1.e. Failure to participate in required in-service training;
- 16.1.f. 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.g. Failure to report legal prohibitions as required by 16.1.f of this rule;

16.1.h. Having 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.

16.2. 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. The Subcommittee may not suspend, revoke, or deny law enforcement certification when an officer is terminated for infractions of his or her agency's policies, general orders, or similar guidelines of operation that do not amount to any of the causes outlined in this section.

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

16.6. 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 remain employed as a law enforcement officer and~~ 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. Certification Retention.

17.1. 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 may continue their law enforcement certification in the active status by:

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

17.1.b. Obtaining mandated in-service training as required for active officers under the rank of sergeant. Training periods are from July 10 of one year to July 9 of the next; and,

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

17.2. It is the responsibility of the individual to provide the training and firearms qualification records to the Law Enforcement Training 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.