

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In This Box

2008 JUN 18 PM 3:10

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

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

RULE TYPE: Legislative CITE AUTHORITY: West Virginia 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 Standards

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 21, 2008 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

West Virginia Division of Criminal Justice Services

1204 Kanawha Boulevard East

Charleston, WV 25301

ATTN: Retired Captain Chuck Sadler

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



Authorized Signature

J. Norbert Federspiel, Executive Director

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Law Enforcement Training Standards

Summary of Proposed Changes to Title 149, Series 2

The members of the Law Enforcement Training (LET) Subcommittee, a subcommittee of the Governor's Committee on Crime, Delinquency and Correction, in recognition of the need to keep this rule current as to current terminology and practices as to the training and certification of law enforcement officers, within West Virginia and through out the United States, met May 29-30, 2008 to address proposed changes to this rule. As a result of the discussion of the subcommittee members, a quorum being present and it being the unanimous decision of those present as to each proposed change, a series of changes were set forth to the current rule.

The changes proposed address the standards for operation of the entry level training program which is the primary avenue by which individuals gain certification as law enforcement officers in West Virginia and the process by which an individual enters the program. The standards governing the certification of instructors involved in the training of law enforcement officers, both entry level and in-service training to certified officers are addressed.

The changes also address the current process of how an individual may gain certification as a law enforcement officer in this state when they have been certified as a law enforcement officer in another state by a recognized federal or state authority. The maintenance of an officer's certification in West Virginia is addressed in the proposed changes.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Law Enforcement Training Standards

Type of Rule: Legislative Interpretive Procedural

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

Address: c/o Division of Criminal Justice Services
1204 Kanawha Boulevard East
Charleston, WV 25301

Phone Number: (304) 558-8814, ext 214 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 financial impact from the proposed changes to this rule, Title 149, Series 2, on the costs revenue of state government.

Fiscal Note Detail

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

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

Rule Title: _____

Rule Title: Law Enforcement Training Standards

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

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

Not applicable, there will be no financial impact from the proposed changes to this rule on the costs and revenues of state government.

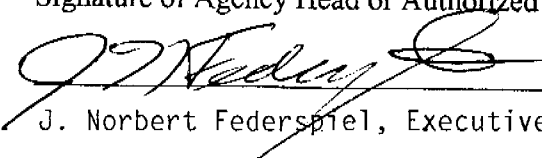
MEMORANDUM

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 or revenues of state government as a result of the implementation of the changes proposed. The changes recommended are to allow the rule to remain current with terminology and accepted practices and policies dealing with the training and certification of law enforcement officers in West Virginia. No changes in the current program and its operations which oversee the training and certification of these officers will occur as a result of the implementation of these proposed changes.

Date: June 18, 2008

Signature of Agency Head or Authorized Representative



J. Norbert Federspiel, Executive Director

QUESTIONNAIRE

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

DATE: June 18, 2004

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Governor's Committee on Crime, Delinquency and
Corrections ATTN: Retired Captain Chuck Sadler 558-8814
West Virginia Division of Criminal Justice Services

1204 Kanawha Boulevard East, Charleston, WV 25301

LEGISLATIVE RULE TITLE: _____
Law Enforcement Training Standards

1. Authorizing statute(s) citation _____
West Virginia Code 30-29-3

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
To be filed June 18, 2008, comment period to run til July 21, 2008 at 5 p.m.

b. What other notice, including advertising, did you give of the hearing?
A memorandum was sent to the head of each law enforcement agency in West Virginia
advising them of the proposed changes in the legislative rule, the comment period and
where individuals could obtain a copy of the proposed rule changes, or to view it on
the state law enforcement training web site and where to submit comments.

c. Date of Public Hearing(s) *or* Public Comment Period ended:
Public Comment Period set to end July 21, 2008 at 5 pm

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

Attached N/A period open No comments received N/A period open

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

Not filed as of this date.

- 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 Coordinator

Division of Criminal Justice Services, 1204 Kanawha Boulevard East

Charleston, WV 25301

(304) 558-8814 ext 214 (o) (304) 558-0391 (fax) Charles.A.Sadler@wv.gov

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

N/A same as in 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 applicable

b. Date of hearing or comment period:

Not applicable

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

Not applicable

d. Attach findings and determinations and reasons:

Attached Not applicable

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

**SERIES 2
LAW ENFORCEMENT TRAINING STANDARDS⁰**

STATEMENT OF FACTS AND CIRCUMSTANCES

The following amendments to 149CSR2 are being proposed:

§149-2-2. Definitions

- **2.14**

Removed a colon “:” and added a period “.” where the colon had been as a result of following recommend change.

Removed the words “Provided that no state institution of higher education or the Hatfield McCoy regional recreation authority shall be considered a law enforcement agency.” It is the opinion of the Law Enforcement Training (LET) Subcommittee members that these agencies are law enforcement agencies by the powers and authority granted to them.

§149-2-3. Academy Facility Standards

- **3.4b.**

Removed the words “and chalkboards”. Recommended removed due to the fact that chalkboards are no longer regularly used in training facilities. The words “Display surfaces” left in rule sufficiently describes the various mediums used.

- **3.7.**

Removed a comma “,” and the words “self-defense, and mechanics of arrest” These words replaced with the words “and defensive tactics.” The words “defensive tactics” are the proper terminology for the type of training presented in such physical training rooms.

- **3.10.**

Added the words “as needed” Due to the manner of note taking and recording of information learned the previous requirement to provide specific items resulted in a cost to the entry level training program that does not now need to be covered. It is the opinion of the LET Subcommittee members that the Academy staff will provide the support materials recognized as needed by the participating students.

§149-2-4. Academy Staffing

- **4.1b.**

Removed the word “may,” replacing it with the word “shall” as to the approval of the Director of Training at entry level training programs other than the program at the West Virginia State Police Academy.

Added a comma “,” and the words “provided that the state police academy is exempt from 4.1b;”. In the opinion of the LET Subcommittee members the state police academy has shown professionalism and consistent high standards in the operation of the entry level training program and as such there is no need for the LET Subcommittee to have oversight authority to approve the Director of Training there. Should other entry level training programs be approved by the LET Subcommittee the members felt important to have the oversight as to who would be directing the training there.

- **4.1.c.8.**

Removed the words “Recommending and requesting reassignment of training personnel;” that make up this complete rule section. It is the opinion of the LET Subcommittee members that such authority, if granted, be at the discretion of the agency sponsoring the entry level training program. It is recognized that the head of such an agency will likely give strong weight to the recommendations and requests of the Director of Training, but that the decision to do so be solely that of the agency head, not by any requirement of this legislative rule.

- **4.1.c.9., 4.1.c.10. and 4.1.c.11.**

With the removal of the wording in 4.1.c.8 as proposed each of these rule line items would move up one in their numbering; 4.1.c.9 becoming 4.1.c.8, 4.1.c.10 becoming 4.1.c.9, 4.1.c.11 becoming 4.1.c.10, there then no further being a 4.1.c.11.

§149-2-5. Instructor Certification

- **5.1.a.**

Removed the words “shall” and “meet”. Added a hyphen “” to the word instructors, making it “instructor’s” to reflect proper use of the word in the context of the sentence and added the words “certification shall be valid for four (4) years provided” and “are met” in listing the standards that are listed in this rule for maintenance of an individual’s certification as an instructor. The LET Subcommittee members felt it important to state that the instructor certification would remain valid as long as the standards set forth in 5.1.a.1. through 5.1.a.4. are met by an instructor.

- **5.1.a.4.**

Removed the words “Sixteen” “academic” and “desired” as to setting that amount of training in a given subject area, other than firearms as addressed under 5.2, Firearms Instructor Certification, and adding the words “A minimum of sixteen” desired; provided that skills level training may require additional instruction in that particular skill as required by the subcommittee.” The LET Subcommittee members felt that while there are subject areas where no more than sixteen hours of training would give an instructor a working knowledge sufficient to impart the subject area to police officers that there were subject areas, specifically skill subject areas, where more than sixteen hours would be required to be completed by an instructor being before being properly trained and to then teach the skill subject area to other police officers. One such example would be defensive tactics. The level of knowledge required to be able to properly train other officers in that subject area could not be gained in sixteen hours.

- **5.1.a.6.**

Added the words “may be required” concerning the provision of a written recommendation from a Chief or Sheriff who knows the ability to instruct of the applicant seeking to become an instructor. In the opinion of the LET Subcommittee members to always require such a recommendation, as has been the standard set by rule, places an unnecessary requirement on many of the individuals seeking to become an instructor. Such knowledge of an individual’s ability to teach is not always known by the Chief or Sheriff. If there is any question as to the applicant’s ability to instruct then such a recommendation may be required.

- **5.1.b.1.**

Removed the words “a two” number (2)” and “block” and added the words “eight” and “(8)” along with making hour plural, now becoming “hours”. As to the maintenance requirements for continuing to be a certified law enforcement

instructor the LET Subcommittee members felt that the prior requirement of only teaching a two (2) hours of instruction every twenty-four (24) months was simply not a high enough standard for the instructor to maintain proficiency in the subject area and in presentation skills. By increasing the standard to a minimum of eight (8) hours the proficiency in the subject area and presentation skills of the instructor will be better maintained.

- **5.1.b.2.**

Removed the words “a” “four (4) hour program” and “within” and replaced with “eight (8) hours” and “every” as one of the ways that a certified instructor may maintain certification as an instructor. As with the reasoning stated in the preceding proposed rule the LET Subcommittee members felt it important that instructors be required to either teach, 5.1.b.1. or attend more training, proposed now as eight (8) hours to maintain their proficiency in their approved subject areas.

- **5.1.c.**

Removed the words “Preventing Voided” and adding “Inactive” and “Status” as what to addressing instructors who had not complied with the maintenance requirements to remain a certified instructor. The LET Subcommittee members felt that in referring to such instructors as being in “Inactive Certification Status” that the rule was being identifying the instructor.

Removed the words “a two” “2” “block” and “void” and replaced with the words “an eight (8) hour” “eight (8) hours” and “rescind.” In the opinion of the LET Subcommittee members these proposed changes more accurately reflected the status of an instructor who had not complied with the maintenance requirements after becoming a certified law enforcement instructor. The proposed changes also properly increased the amount of training that such an instructor with a rescinded certification status would need to complete within a prescribed period to be allowed to instruct again.

- **5.2a.2.**

Removed the words “five (5) days” and added the words “handgun” and “forty (40) hours” as to the type and amount of training that an individual seeking to be a certified police firearms instructor has to complete in addition to the forty (40) hour basic instructor development course. It is the opinion of the LET Subcommittee members that in seeking to become a firearms instructor that an individual first be trained and certified as a handgun instructor as that is the primary duty weapon carried by law enforcement officers in this state. The change from days to hours insures that the individual will complete a sufficient minimum amount of training to become proficient in the area of expertise of being a handgun firearms instructor.

- **5.2.c**

Removed the words “Preventing Voided” and added “Inactive” and “Status.” As previously noted under proposed rule change to 5.1.c. the LET Subcommittee members feel that this rule name change more accurately reflects the status of a firearms instructor who has not met applicable maintenance requirements.

Removed the word “void” and added the word “rescind” to reflect the position that the LET Subcommittee members would take concerning firearms instructors who did not comply with their maintenance requirements.

- **5.5.d.**

Removed the words “the application” and “for instructor certification” and added the words “any necessary paperwork required by the Law Enforcement Training Subcommittee.” In the opinion of the LET Subcommittee members these words will more clearly define and allow for proper action to be taken in revoking an instructor’s certification if any falsified or omitted information is found on any of the paperwork submitted when securing their approval as an instructor and now also including any paperwork submitted in support of maintenance of instructor certification or for classes taught.

§149-2-6 Basic Training Academy Policies

- **6.**

In the heading section removed the word “Basic.” In the opinion of the LET Subcommittee members this proposed change allows for the entry level training minimum requirements to be the same for the Cadet, Trooper, classes as for the Basic, Municipal and County Officers, classes. While the practice had been that they were this rule changes clarifies that they are.

- **6.1.**

Removed the word “required” and added the words “, to include all items listed in the course curriculum,”. In the opinion of the LET Subcommittee members this clarifies the previously established policy that attendance/participation in all entry level training program classes and functions from the time the program starts until the officers are dismissed following the graduation program unless excused by the Director of Training.

- **6.3.**

Removed the numbers “(70)” and word “written”, modified the words “seventy” to become “seventy-five” and added the words “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 will be dismissed as a scholastic failure.” In the opinion of the LET Subcommittee members these changes set the minimum passing score for examinations during the entry level training program at a level which reflects that the student officer is proficient in, capable of completing the subject/skill learned. The language added addressing the number of times which a student officer may retake a failed examination, one time for each of two subject examinations and three times for all skills examinations, clarifies the regular practice of the program. It allows the student officer to have a chance to show required proficiency in the subject areas and skills required to be a law enforcement officer in West Virginia.

- **6.5.**

Removed the words “scholastic failure” in that this is not an action for which an officer “may” be dismissed from the entry level training program. §149-2-6.3. requires that an individual be dismissed for scholastic failure.

- **6.5.b.**

Removed the words “to the Governor’s Committee on Crime, Delinquency and Correction” as to the appeal process for dismissals other than scholastic failure. The language as amended, that the appeal shall be “in accordance with the Administrative Procedures Act. W. Va. Code §29A-3-1 et. seq.” brings the appeal process in accord with state code and accepted personnel practices for such reviews.

§149-2-7. Academy Training Curriculum

- **7.1.**

Removed the word “six” and the number “600” replacing them with the word “eight” and the number “800.” This change sets the number of minimum hours required for the curriculum of the entry level training program to be consistent with the number of hours that the program has been set and operated at. It is opinion of the LET Subcommittee members and the Director of Training at the West Virginia State Police Academy that eight hundred (800) hours is the minimum hours that such a program should be set at to properly train entry level law enforcement officers for work in West Virginia.

§149-2-8. Academy Entry Standards

- **8.1.**

Added the words and punctuation “, or be trained to perform,” In the opinion of the LET Subcommittee members the addition of this phrase allows that an applicant for the entry level training program either can already perform one of the required tasks to be a law enforcement officer or that he or she has the ability to be trained to complete the task.

- **8.2.c.**

Removed the words “and shall be related to a request for reasonable accommodation or correctable medical problem” and added a period (.) at the point where these words had been removed. In the opinion of the LET Subcommittee members this change allows that extension requests for the filing of the academy application and completed medical examination may be for more justified reasons than the language allowed prior to this recommended change. Prior to this recommended change an extension request could only be filed for two reasons, reasonable accommodation request and a correctable medical problem.

- **8.3.**

Removed the word “must” and replaced it with “should.” In the opinion of the LET Subcommittee members this change allows the LET Subcommittee and the Director of Training of an entry level training Academy the appropriate degree of flexibility in designing the training curriculum for the program and as to the standard required for successful indication of ability to complete tasks identified under their job description.

- **8.3.c.8.**

Removed the words ““breathalyzer/Intoxilyzer” type” and “or” and replaced with the words “secondary chemical test.” In the opinion of the LET Subcommittee members this removes language referring to the equipment by brand name, i.e. breathalyzer, and replaces it with more correct language in referring to it by the type of test that it is, in this case a “secondary chemical test” which occurs after the arrest of an impaired driver.

- **8.3.c.10.**

Removed the word “accident” and replaces with “crash.” In the opinion of the LET Subcommittee members the change more properly reflects the nature of the matter being investigated. “Crash” is the term used by emergency service personnel to best describe what has happened.

- **8.3.c.11.**

Removed the word “accidents” and replaces with “crashes” In the opinion of the LET Subcommittee members the change more properly reflects the nature of the matter being investigated. “Crashes” is the term used by emergency service personnel to best describe what has happened.

- **8.3.f.10.**

Removed the word “Pull” and replaces it with “Remove.” In the opinion of the LET Subcommittee the change in words more properly reflects the action of the law enforcement officer in addressing individuals who are resisting arrest while still in their vehicle in line with the training they receive to address such individuals.

- **8.3.f.13.**

Removes all of the words used in this section, those being “Use a hammerlock to hold a person.” In the opinion of the LET Subcommittee members that removal of this language is consistent with the type of Defensive Tactics training that the law enforcement officers receive in the entry level training program. It is not necessary to identify a specific hold, in this case a “hammerlock” in that the technique may subsequently not be used. The terminology which follows in §149-2-8.3.f.14 (to become f.13.) “Use submission holds to control a person.” Adequately defines the skills that an officer should be able to demonstrate and use.

- **8.3.f.14., 15., 16., 17, 18., 19., 20. and 21.**

With the recommended removal of §149-2-8.3.f.13 each of these following line items would move up one number; f.14 becoming f.13, f.15 becoming f.14., f.16. becoming f.15., f.17. becoming f.16., f.18. becoming f.17., f.19. becoming f.18., f.20 becoming f.19. and f.21. becoming f.20.

- **8.3.g.2.**

Removed the word “moving” and replaces with the word “a.” In the opinion of the LET Subcommittee members this change may properly reflects the training that entry level law enforcement officers receive concerning the discharge of a weapon when a vehicle is involved.

- **8.3.g.3.**

Removed the word “night” and replaced with the words “in low light conditions.” In the opinion of the LET Subcommittee members this change brings this section

of the legislative rule in line with the terminology referred to in other sections of these rules, Title 149, Series 2, when referring to use of firearms during low light or dark conditions.

- **8.3.g.9.**

Removed the word “nighttime” and replaced it with the word “lowlight.” As reflected in preceding note and justification this change is consistent with terminology used in the use of firearms by officers under darkened conditions.

- **8.3.i.2.**

Removed the word “accidents” and replaced it with “crashes.” As reflected in previous notes and justifications the use of the term “crashes” more properly refers to what the nature of the incident is.

- **8.3.k.7.**

Removed the words “court at implied consent” and added the words “administrative” and “DMV.” In the opinion of the LET Subcommittee members this change more accurately reflects where such testimony would be presented in heard, that being in an administrative hearing with a DMV Hearing Examiner conducting it.

- **8.3.n and 8.3.n.1., 2., 3., 4., 5. and 6.**

Removed the words “accident” and “accidents” and replaced with the words “crash” and “crashes.” As reflected in previous notes and justifications the use of the words “crash” and “crashes” more properly refers to what the incident is.

- **8.3.n.2.**

Removes the letters “MV” and replaces with “ivision of Highways.” This change, changing DMV to Division of Highways, properly reflects which state agency is now responsible for the standard crash report.

- **8.4.a.**

Removed the word “alcohol” and replaced with “preliminary.” This change more accurately reflects the type of test administered at roadside to determine if alcohol is present in blood system of a suspected impaired driver.

- **8.4.n.**

Removed the word “radar unit” and replaces it with “speed measuring device.” In the opinion of the LET Subcommittee members this change more properly

reflects that there are various units which a law enforcement officer may measure the speed of a vehicle, i.e. radar or laser.

- **8.6.c.**

Removed the word “four” and number “4” and replaces with the word “three” and number “3.” As a result of the Cooper Institute of Aerobics Research, referenced in §149-2-8.6.a., removal of the flexibility component of its recommended physical ability test battery the test battery now consists of three elements. This change recognizes that there are three elements, those being sit-ups to test muscular endurance, push-ups to test absolute strength and the one and one-half mile run to test cardiovascular capacity.

- **8.6.d.2.**

Removes all of the language under this section, that being:

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

No language replaces these words. As noted in the facts and justifications concerning the change recommended under §149-2-8.6.c. the flexibility component of the physical ability test battery is no longer used/recommended by the Cooper Institute of Aerobics Research.

- **8.6.d.3**

Removes the number “3” and replaces it with “2” as to the numbering of this rule. With the recommended deletion of §149-2-8.6.d.2, as addressed in these notes and justifications, this rule would become §149-2-8.d.2 in its place.

Removes the words “can be done by the applicant either by:” and replaces with the words “will be scored by one of the following two standards:” In the opinion of the LET Subcommittee members this change clarifies, in conjunction with §149-8-2-8.6.2.(a). and 2.(b). (recommended numbering changes), the manner in which a push-up will be scored.

- **8.6.d.3.A.**

Removed the number “3” and replaces with “2.” With the recommended deletion of the language in §149-2-8.6.d.2. this subsection moves up one in numbering in reflecting its position under the re-numbered section §149-2-8.6.d.2.

Removed the word “Placing” and replaces with “The counter will place.” In the opinion of the LET Subcommittee members this language will clarify how a push-up is to be scored if the counter elects to use his or her fist to determine when a push-up has been properly completed.

- **8.6.d.3.B.**

Removed the number “3” and replaces with “2.” With the recommended deletion of the language in §149-2-8.6.d.2. this subsection moves up one in numbering in reflecting its position under the re-numbered section §149-2-8.6.d.2.

- **8.6.d.4.**

Removed the number “4” and replaces with “3.” With the recommended deletion of the language in §149-2-8.6.d.2. this subsection moves up one in numbering in reflecting its position under the re-numbered section §149-2-8.6.d.2.

- **8.6.e.**

Removed the word “four” and number “4” and replaced with the word “three” and the number “3” This recommended change is consistent with the previously reflected position that the physical ability testing now consists of three elements, not four.

Removes the words “first available basic” In the opinion of the LET Subcommittee members this change reflects the current practice of the individual having to be able to successfully pass each of the physical ability test elements on the day that he or she is set to enter the entry level training program.

Removes the words “The results of the physical ability test are valid for a period of six months.” In the opinion of the LET Subcommittee members this causes the individual to have to be able to successfully pass each of the physical ability test elements on the day that he or she is set to enter the entry level training program. Should an individual have to be delayed in entering the entry level training program for a valid reason, i.e. took the test battery as a stand in candidate, but an opening was not available for him to participate in that Academy program, he or she would then be required to demonstrate the ability to successfully pass each of the test elements for the next entry level program scheduled for.

- **8.6.f.**

Removes the two words “four” in the section and replaces each with the word “three.” This recommended change is consistent with the previously reflected position that the physical ability testing now consists of three elements, not four.

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

- **9.1.**

Removes the words “and supported” The LET Subcommittee does not support in-service training programs at this time and is not projected to do so in the future. As such the wording “and supported” is not required. The LET Subcommittee has the ability through the language currently under this rule, “All in-service programs approved” to insure that training is “conducted in adequate and proper places.”

Removes the words in the last three lines of this section:

“Approval of the Law Enforcement Training Subcommittee of all locations is required if financial support or credit to maintain certification standards is expected. When financial support or certification credit is not requested, the training standards in this section do not apply.”

As reflected in the opening notes and justification concerning this section the Law Enforcement Training Subcommittee does not financially support such training. The remaining prior wording of the section allows it to have sufficient control and oversight of the classroom or training facilities used during the presentation of law enforcement training through its ability to insure that such training is “conducted in adequate and proper facilities.”

- **9.3.c.**

Removes the words “and chalkboards” The remaining words “Display surfaces” is more reflective of the types of surfaces that will be used during law enforcement training classes.

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

- **10.7.**

Removed the number “70%” and replaces it with “75%” In the opinion of the LET Subcommittee members this scoring requirement for successful passage of examinations is representative of the standard which they wish to see officers achieve to reflect proficiency in the subject area tested. This change is consistent with the recommended change under §149-2-6.3., Grades – Training Academy Policies, where 75% is to be standard for successful completion of examinations taken during the entry level training program.

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

- **13.6.**

Removed the words “Departments shall submit written notice of the status of annual in-service and supervisory in-service training, listing the name of anyone failing to meet the Governor’s Committee requirements.” In the opinion of the LET Subcommittee members such notification was necessary prior to the implementation of the electronic training data base known as the Officer Training Information System (OTIS). With OTIS the LET Program is directly able to track this in-service related information and does not need for the agencies to prepare and submit such a listing.

§149-2-14. Equivalent Certification

- **14.1.a.**

Removed a semi-colon “;” and adds a comma “,” and the words “excluding military police;” In the opinion of the LET Subcommittee members military police officers do not receive sufficient entry level training of a nature to allow them to be considered for participation in the equivalent certification program under the provision of “equivalent federal law enforcement training.”

- **14.1.d.2.**

Removed the words “Defensive Driving” and replaced them with the words “Emergency Vehicle Operations Course” In the opinion of the LET Subcommittee members this terminology more accurately reflects the nature and type of training that law enforcement officers receive in the operation of their vehicles.

- **14.1.d.3.**

Removed the words “Mechanics of Arrest” and replaced them with the words “Defensive Tactics” In the opinion of the LET Subcommittee members this terminology more accurately reflects the nature and type of training that law enforcement officers receive in the handling the arrest of individuals and handling those individuals whose actions require the use of force by an officer.

- **14.1.d.4.**

Removed a comma “,” and the words “Search and Seizure” In the opinion of the LET Subcommittee members this change more accurately reflects the title and nature of the training that law enforcement officers receive during the entry level training program. The complexity of court decisions and laws relating to the detention and arrest of an individual require that this class be taught as separate

course. As reflected in the note addressing proposed addition of §149-2-14.1.d.8. the topic of Search and Seizure is addressed in its own block of training.

- **14.1.d.6.**

Removed the word “and” and a comma “,” With the proposed addition of §149-2-14.1.d.8. the word “and” is not required at this point of the rules. It is recommended to be put in the following section, §149-2-14.1.d.7.

- **14.1.d.7.**

Added the word “and” and a comma “,” at the end of this section. With the proposed addition of §149-2-14.1.d.8. the word “and” is required at this point of the rules to reflect that the next proposed section is the last part of this rule.

- **14.1.d.8.**

Added the rule number “14.1.d.8.” and the words “Laws of Search and Seizure.” In the opinion of the LET Subcommittee members, as reflected in the proposed change to §149-2-14.1.d.4. this change recognizes the fact that there are now separate classes during the entry level training program dealing with the subjects of “Laws of Arrest” and “Laws of Search and Seizure.”

- **14.4**

Removed the words, as follows, comprising this entire rule section:

“Applicants for equivalent certification may, by prior arrangement with the training academy, test for credit in lieu of attending any of the classes required for equivalent certification. If applicable, the applicant shall pass both the written and practical tests at the academy standard to receive credit. 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 core courses failed by the applicant.”

In the opinion of the LET Subcommittee members there should not be an allowance for officers seeking equivalent certification as a West Virginia law enforcement officer, based on training completed in another state or at the federal level and who are certified law enforcement officers in good standing in that other entity, to test out of the required classes listed under §149-2-14.1.d.1-8. Requiring attendance in all of these classes will insure that this individual is aware and understands all applicable training issues, court decisions and statutory requirements relevant to these subject areas within the State of West Virginia.

- **14.5**

Removed the number “5” changing it to “4” With the recommended deletion of §149-2-14.4 this section of the rule would move up one in the numbering sequence. It would become §149-2-14.4.

Removed the word “subcommittee” at three locations within the text of this rule, replacing it with the words “review board” In the opinion of the LET Subcommittee members this terminology more accurately reflects the name and nature of the members selected from the LET Subcommittee to examine and determine the eligibility of individuals to participate in the equivalent certification process.

Removed the word “a” twice and “training academy” and replaced them with “the” and “West Virginia State Police Academy” In the opinion of the LET Subcommittee members one member of the review board for individuals seeking to become certified law enforcement officers in West Virginia through the equivalent certification process should be the Director of Training at the West Virginia State Police Academy. Should there be more than one entry level training academy operating at a given time this change clarifies who will serve on this review board as to the position occupied by a director of training.

- **14.6.**

Removed the number “6” changing it to “5” With the recommended deletion of §149-2-14.4 this section of the rule would move up one in the numbering sequence. It would become §149-2-14.5.

§149-2-15. Re-certification Requirements

- **15.3.b.**

Removed the words “Defensive Driving” and replaced them with the words “Emergency Vehicle Operations Course” In the opinion of the LET Subcommittee members this terminology more accurately reflects the nature and type of training that law enforcement officers receive in the operation of their vehicles.

- **15.3.c.**

Removed the words “Mechanics of Arrest” and replaced them with the words “Defensive Tactics” In the opinion of the LET Subcommittee members this terminology more accurately reflects the nature and type of training that law enforcement officers receive in the handling the arrest of individuals and handling those individuals whose actions require the use of force by an officer.

- **15.3.d.**

Removed a comma “,” and the words “Search and Seizure” In the opinion of the LET Subcommittee members this change more accurately reflects the title and nature of the training that law enforcement officers receive during the entry level training program. The complexity of court decisions and laws relating to the ` detention and arrest of an individual require that this class be taught as separate course. As reflected in the note addressing proposed addition of §149-2-15.3.h. the topic of Search and Seizure is addressed in its own block of training.

- **15.3.f.**

Removed the word “and” and a comma “,” With the proposed addition of §149-2-15.3.h. the word “and” is not required at this point of the rules. It is recommended to be put in the following section, §149-2-15.3.g.

- **15.3.g.**

Added the word “and” and a comma “,” at the end of this section. With the proposed addition of §149-2-15.3.h. the word “and” is required at this point of the rules to reflect that the next proposed section is the last part of this rule.

- **15.3.h.**

Added the rule number “15.3.h.” and the words “Laws of Search and Seizure.” In the opinion of the LET Subcommittee members, as reflected in the proposed change to §149-2-15.3.d. this change recognizes the fact that there are now separate classes during the entry level training program dealing with the subjects of “Laws of Arrest” and “Laws of Search and Seizure.”

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

- **16.3.**

Added the letter “r” to the word “office” in this section where the language had been “certification, if the office was terminated...” This section is referring to officers and actions concerning them. This change allows for the correct use of the word in that it is meant to refer to an “officer” not an “office”.

- **16.7**

Creates a new section under the rule addressing “Certification Denial, Suspension or Revocation” by the addition of the following words:

“The Executive Director of the Governor’s Committee on Crime, Delinquency and Correction shall be empowered at the request of the Law

Enforcement Training Subcommittee to issue subpoenas in all matters concerning certification.”

In the opinion of the LET Subcommittee members the ability for the Executive Director to so issue subpoenas for the appearance of individuals and the production of records, as required, will directly facilitate the ability of the subcommittee to review and take action as appropriate concerning the certification of individuals who are law enforcement officers in West Virginia. At the present time the ability to secure necessary information, or the ability to require individuals to appear before the subcommittee, is not available. This has resulted in individuals being able to maintain their certification as law enforcement officers in this state when they should not be able to.

§149-2-17. Certification Retention.

- **17.1.a.**

Removed the word “thirty” and the number “30” and replaced them with the word “ninety” and the number “90” In the opinion of the LET Subcommittee members this change better affords law enforcement officers who wish to fully maintain their certification as law enforcement officers in the “Certification Retention” program a suitable time frame to make application to do so.

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

**SERIES 2
LAW ENFORCEMENT TRAINING STANDARDS**

§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 11, 2005.

1.4. Effective Date. -- July 1, 2005.

§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" for the purpose of this rule, includes a conviction from this state or any other municipal, federal, tribal, military or state jurisdiction, including one that has been dismissed or treated in a similar manner. "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" means the Governor's Committee on Crime, Delinquency and Correction established as a state planning agency pursuant to W. Va. Code §15-9-1.

2005 JUN 10 PM 3:10

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; ~~Provided that no state institution of higher education or the Hatfield-McCoy regional recreation authority shall be considered a law enforcement agency.~~

§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 ~~and chalkboards~~ 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, ~~self-defense, and mechanics of arrest training and~~ defensive tactics.

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 West Virginia Motor Vehicle Laws;

3.10.f. Pencils 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 ~~may~~ shall be approved by the Governor's Committee based on a composite assessment of the candidates' education, training, administrative and law enforcement experience, provided that the state police academy is exempt from 4.1.b.

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. Recommending and requesting reassignment of training personnel;~~

~~4.1.c.9. Dismissing trainees;~~

~~4.1.c.10. Excusing absences of trainees; and,~~

~~4.1.c.11. 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 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 instructor's ~~shall~~ certification shall be valid for four (4) years provided meet 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 skills level training may require additional training in that particular skill as required by the subcommittee.

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

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

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

5.1.b.1. Instruct at least eight (8) a two (2) hours block in a basic training program or a Subcommittee certified in-service program every twenty-four (24) months from the date of their original certification; or,

5.1.b.2. Attend, at a minimum, a eight (8) hours four (4) hour program on teaching updates or additional training in subject areas in which they are certified to instruct, within every twenty-four (24) months of the original instructor certification.

5.1.c. Preventing Voided 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 a two eight (28) hours block in a Committee approved program under the direct supervision of an active, certified instructor. The Subcommittee shall void-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 have the following:

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

5.2.a.2. Completed a handgun firearms instructor school, of not less than five (5) days 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 certification 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 certification; 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. ~~Preventing Voiced 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 certification, 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 ~~void-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, are exempt 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 required on the application any necessary paperwork required by the Law Enforcement Training Subcommittee. for instructor certification.~~

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. Basic Training Academy Policies.

6.1. Attendance. -- An officer shall attend all classes and class functions, to include all items listed in the course curriculum, ~~required~~ 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 (7075%) and an officer shall maintain an academic average of seventy-five percent (7075%) for graduation and certification. Students failing to obtain 7075% on a ~~written~~ 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 ~~scholastic failure,~~ 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 ~~to the Governor's Committee on Crime, Delinquency and Correction~~ 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 ~~six~~ eight hundred (~~600~~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, 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 they must 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 such position, and 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 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.

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, ~~and shall be related to a request for reasonable accommodation or correctable medical problem.~~

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 ~~must~~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 wants or warrants on persons through DMV/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 ~~breathalyzer/intoxilyzer~~ type secondary chemical test instrument to test blood or alcohol content;

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

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

8.3.c.11. Record statements of witnesses to traffic ~~accidents~~ 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. ~~Pull~~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 a hammerlock to hold person;~~
 - 8.3.f.~~14~~13. Use submission holds to control a person;
 - 8.3.f.~~15~~14. Locate and observe crowd agitators;
 - 8.3.f.~~16~~15. Patrol riot stricken or civil disturbance areas;
 - 8.3.f.~~17~~16. Physically restrain a crowd;
 - 8.3.f.~~18~~17. Catch a falling person to prevent injury;
 - 8.3.f.~~19~~18. Use body language to project control and influence a situation;
 - 8.3.f.~~20~~19. Use voice commands to project control and direct actions; and
 - 8.3.f.~~21~~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 ~~moving a~~vehicle;
 - 8.3.g.3. Discharge a firearm at ~~night~~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 ~~nighttime~~ 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 accidents 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 court at ~~implied consent~~ 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 Accident Crash Investigations. -- In conducting traffic accident crash investigations, an entry-level officer may:

- 8.3.n.1. Collect physical evidence from an accident crash scene;
- 8.3.n.2. Complete the standard DMV Division of Highways traffic accident crash report form;
- 8.3.n.3. Determine contributing factors to an accident crash;
- 8.3.n.4. Diagram accident crash scenes;
- 8.3.n.5. Protect traffic accident crash physical evidence for collection; and
- 8.3.n.6. Take precautions to prevent additional accidents crashes at an accident 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 alcohol 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 ~~radar unit~~ 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 is commonly accepted. 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 task 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 not have or 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 - 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., Scleroderm.

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 (now disqualifying);

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 section 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 ~~four~~^{three}(~~4~~)(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. Flex (Flexibility) - The "sit and reach" test measures the range of motion of the lower back and hamstrings. The test involves stretching out to touch the toes and beyond with extended arms from the sitting position. The score is in inches reached on a yardstick with the fifteen-inch (15") mark being at the toes.~~

8.6.d.32. 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 ~~can be done by the applicant either by~~ will be scored by one of the following two standards:

8.6.d.32.A. ~~The counter will~~ Placing 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.32.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.4d.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 ~~four (4)~~ three (3) elements of the physical ability test may use the passage of this test for entry into the ~~first available basic entry-level training program. The results of the physical ability test are valid for a period of six months.~~

8.6.f. Applicants who successfully completed all ~~four~~ 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 ~~four~~ 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 ~~and supported by the Governor's Committee on Crime, Delinquency and Correction shall be conducted in adequate and proper facilities. Approval of the Law Enforcement Training Subcommittee of all locations is required if financial support or credit to maintain certification standards is expected. When financial support or certification credit is not requested, the training standards in this section do not apply.~~

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 and chalkboards 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 sixteen (16) classroom hours, exclusive of firearms qualification.

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 its members, one of which will be a low light firing for qualification.

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 ~~70%~~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 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.

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.

11.4. Curriculum for Supervisory In-Service Training.

11.4.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 each West Virginia law enforcement agency to ensure employee compliance with the law.

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

13.6. 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. ~~Departments shall submit written notice of the status of annual in-service and supervisory in-service training, listing the name of anyone failing to meet the Governor's Committee requirements.~~ Notification of 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:

14.1.d.1. Firearms Training and Certification;

14.1.d.2. ~~Defensive Driving~~Emergency Vehicles Operations Course;

14.1.d.3. ~~Mechanics of Arrest~~Defensive Tactics;

14.1.d.4. Laws of Arrest, Search and Seizure;

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

14.1.d.6. Criminal Law; ~~and,~~

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. Applicants for equivalent certification may, by prior arrangement with the training academy, test for credit in lieu of attending any of the classes required for equivalent certification. If applicable, the applicant shall pass both the written and practical tests at the academy standard to receive credit. 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.~~

~~14.5. The Law Enforcement Training Sub-committee shall form a subcommittee review board which shall review all applications for equivalent certification. The equivalent certification sub-review board committee shall determine if the applicant's prior law enforcement training is equivalent to the 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 sub-committee review board shall be a the director of training of a trainin West Virginia State Policeg. academy Academy approved by the full sub-committee.~~

14.65. 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:

15.3.a. Firearms Training and Certification;

15.3.b. Defensive Driving Emergency Vehicle Operations Course;

15.3.c. Mechanics of Arrest Defensive Tactics;

15.3.d. Laws of Arrest, Search and Seizure;

15.3.e. West Virginia Motor Vehicle Law;

15.3.f. Criminal Law Update; and,

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. Whose 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 rule.

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.

16.7. The Executive Director of the Governor's Committee on Crime, Delinquency and Correction shall be empowered at the request of the Law Enforcement Training Subcommittee, to issue subpoenas in all matters concerning certification.

§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 ~~thirty~~ 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.