

WEST VIRGINIA  
SECRETARY OF STATE  
JOE MANCHIN, III  
ADMINISTRATIVE LAW DIVISION

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Form #2

WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

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

RULE TYPE: Legislative CITE AUTHORITY: 30-29-3

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 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 5, 2002 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

Attention: Jeffrey D. Estep

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



Authorized Signature

J. Norbert Federspiel, Director

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

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

**SERIES 2  
LAW ENFORCEMENT TRAINING STANDARDS**

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**SUMMARY OF PROPOSED RULE**

This legislative rule establishes standards for basic training academies with medical admission and physical ability guidelines, a job description of a basic entry-level officer and other related standards an officer must meet for entry into a basic program. This rule also outlines standards for successful completion of a basic training program, annual in-service and biennial in-service training, and continued certification, re-certification and de-certification standards for law enforcement officers.

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

**SERIES 2  
LAW ENFORCEMENT TRAINING STANDARDS**

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**STATEMENT OF CIRCUMSTANCES**

The following amendments to 149CSR2 are being proposed:

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

- **11.2.**

The amendment to this sub-section would establish more specific time parameters for Supervisory Level In-Service Training.

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

- **14.1.a.**

The amendment to this sub-section would provide for equivalent certification of law enforcement officers who received their entry-level training attendant to employment with a federal law enforcement agency.

- **14.1.b.**

The amendment to this sub-section would provide for equivalent certification of law enforcement officers who received their entry-level training attendant to employment with a federal law enforcement agency.

- **14.1.c.**

The amendment to this sub-section eliminates the one (1) year full-time employment requirement, as well as the requirement that an officer certified by another state apply for equivalent certification in West Virginia within two (2) years of leaving that full-time employment. Certification for West Virginia officers is based solely on the successful completion of specific training. Requiring out-of-state officers to have both specific training and experience is illogical and does not appear to be related to any compelling law enforcement interest in West Virginia.

- **14.1.d. through 14.1.f.7.**

Amendments have been made that renumber these subsections due to the fact that the original 14.1.c was eliminated in its entirety.

- **14.2.**

In order to take the courses at the State Police Academy required for equivalent certification, an applicant must demonstrate that they meet a minimum level of physical ability on four standard physical tests. This requirement was enacted in order to ensure that applicants to the residential, modified-stress training program are able to withstand the physical demands associated with that program. Thus, previously certified officers in good standing, who will be attending classes on a part-time basis or testing for credit on those classes, are currently required to meet the same level of fitness as a participant in the full seven-hundred (700) hour plus level of residential program despite the fact that the equivalent certification classes involve a minimum level of physical exertion. This sub-section has been amended to remove the physical ability testing requirement for equivalent certification while retaining the requirement that applicants present a medical examination that demonstrates that they meet the minimum requirements for admission to a basic program.

- **14.3.**

This sub-section has been amended to require that applicants for equivalent certification who test in lieu of attending classes meet the academy standard for all written and practical tests. The amendment further provides that if an applicant fails a test they shall attend and successfully complete the full entry-level course that they failed.

- **14.4.**

This new sub-section was added in order to formalize the process of equivalent certification by requiring the sub-committee to form an equivalent certification sub-committee. The equivalent certification sub-committee would be charged with reviewing all applicants for equivalent certification in order to determine if the applicant's prior training is comparable to current West Virginia training standards. Once the review is complete, the equivalent certification sub-committee will make a recommendation to the full sub-committee.

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

- **15.2.**

The sub-section has been eliminated in its entirety. The two (2) year threshold which dictated the level of training for officers who have been separated from law

enforcement employment does not appear to be related to any compelling law enforcement interest. The requirement that re-certifying officers complete in-service within thirty (30) days is non-functional due to the fact that an officer could take sixteen (16) hours of hate crimes or problem solving and neither class would necessarily prepare the officer to return to work. It would seem more logical to require an update on criminal law or laws pertaining to search and seizure. Finally, the thirty (30) day firearms qualification requirement was eliminated because section 15.3 address this requirement.

- **15.3.**

The amendments renumber this sub-section, as well as its subparts. They further require all re-certifying officers to either test in lieu of attending classes or actually take the classes listed, with the emphasis on testing. Again, the two (2) year requirement was eliminated from this sub-section.

- **15.4.**

The amendments renumber this section and remove the physical ability testing requirement for re-certification applicants based on the analogy detailed in 14.2 above.

- **15.5.**

The amendments renumber this section and provide that re-certification applicants who fail a test in lieu of attending classes must attend and meet the academy standard for the specific entry-level class they failed.

- **15.5.a.**

This new sub-section allows for any officer who was previously certified in West Virginia, regardless of when they left law enforcement, to re-certify, if they can demonstrate through either testing or attending the required classes that they have the knowledge and ability to perform the duties associated with being a police officer.

□  
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 & Correction

Address: 1204 Kanawha Boulevard, East  
Charleston, WV 25301

1. Effect of Proposed rule: N/A

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST					
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

There are no direct costs associated with the proposed amendments to this rule beyond the current cost to law enforcement agencies.

3. Objectives of These Rules: This legislative rule establishes standards for basic training academies with medical admission and physical ability guidelines, a job description of a basic entry-level officer and other related standards an officer must meet for entry into a basic program. This rule also outlines standards for successful completion of a basic training program, annual in-service and biennial in-service training, and continued certification, re-certification and de-certification standards for law enforcement officers.

Rule Title: Law Enforcement Training Standards

4. Explanation of Overall Economic Impact of Proposed Rule:

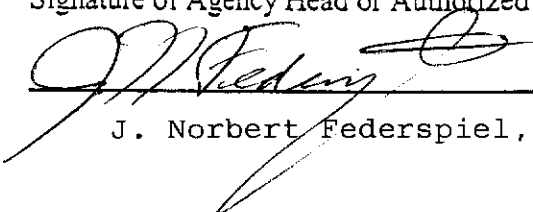
A. Economic Impact on State Government:

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

C. Economic Impact on Citizens/Public at Large.

Date: June 3, 2002

Signature of Agency Head or Authorized Representative:



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J. Norbert Federspiel, 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 3, 2002

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Division of Criminal Justice Services

1204 Kanawha Boulevard, East, Charleston, WV 25301

Telephone: (304) 558-8814

LEGISLATIVE RULE TITLE: Law Enforcement Training Standards

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

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
June 3, 2002

b. What other notice, including advertising, did you give of the hearing?  
A memo will be mailed to all chiefs of police and  
sheriffs advising them of the comment period with  
a brief summary of the changes to the rule.

c. Date of Public Hearing(s) or Public Comment Period ended:  
July 5, 2002

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

Attached \_\_\_\_\_ No comments received \_\_\_\_\_

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

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

Jeffrey D. Estep, Deputy Director - Operations

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

Telephone/Fax: (304) 558-8814, ext. 267/558-0391

email: [jestep@wvdcjs.org](mailto:jestep@wvdcjs.org)

- 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)

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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.

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b. Date of hearing or comment period:

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

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d. Attach findings and determinations and reasons:

Attached 

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FILED

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

**SERIES 2**  
**LAW ENFORCEMENT TRAINING STANDARDS**

3000 1113 A 10: 21  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**§149-2-1. General.**

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

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

1.3. Filing Date. --

1.4. Effective Date. --

**§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 or state jurisdiction, including one that has been expunged, dismissed, or treated in a similar manner in either of these procedures. "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. "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;

2.7. "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.

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

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

2.10. Non-law enforcement 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.

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

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

2.13. "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 is twenty-five (25) officers. Classrooms for 25 or fewer trainees shall be at least twenty-by-thirty feet (20' x 30').

3.3.b. Artificial lighting shall provide good visibility at all times. Day lighting shall be controlled by either drapes or shades of a design and material to 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 and level tops with a width of no less than two feet (2') 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. Chalkboards shall have a writing surface of at least forty inches by ninety inches (40" x 90").

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

3.4.d. The following equipment shall be available and operable at the beginning of each class when needed:

3.4.d.1. Sixteen (16) Millimeter Projector;

3.4.d.2. Thirty-five (35) Millimeter Slide Projector;

3.4.d.3. Overhead Projector;

3.4.d.4. Projection Screen (minimum size 40" x 60");

3.4.d.5. Television and VCR.

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

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

3.6.a. It shall permit both handgun and shotgun firing 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.

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:

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 be approved by the Governor's Committee based on a composite assessment of the candidates' education, training, administrative and law enforcement experience.

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

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

4.1.c.2. Selecting qualified instructors;

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

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

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

4.1.c.6. Requiring all applicants to provide a medical examination that shows they meet the requirements for admission to a basic entry-level training program and complete the physical fitness test battery at the 40th percentile 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 instructors shall meet the following standards:

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

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 from the applicant's chief or sheriff, or if a civilian, from a sheriff or chief who knows the applicants 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 a two (2) hour block in 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 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 the original instructor certification.

5.1.c. Preventing Voided Certification. -- Instructors placed on inactive status by the law enforcement training subcommittee must within twenty-four (24) months of such placement attend a teaching update program; or teach a two (2) hour block in a Committee approved program under the direct supervision of an active certified instructor. The Subcommittee shall void 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 firearms instructor school, of not less than five (5) days, 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 Voided Certification. -- 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 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 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 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 percent (70%) and an officer shall maintain an academic average of seventy percent (70%) for graduation and certification. Students failing to obtain 70% 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.

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 hundred (600) 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 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 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 instrument to test blood or alcohol content;
- 8.3.c.9. Investigate hit and run violations;
- 8.3.c.10. Investigate a traffic accident scene to identify points of impact;
- 8.3.c.11. Record statements of witnesses to traffic accidents;
- 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 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. Use submission holds to control a person;
  - 8.3.f.15. Locate and observe crowd agitators;
  - 8.3.f.16. Patrol riot stricken or civil disturbance areas;
  - 8.3.f.17. Physically restrain a crowd;
  - 8.3.f.18. Catch a falling person to prevent injury;
  - 8.3.f.19. Use body language to project control and influence a situation;
  - 8.3.f.20. Use voice commands to project control and direct actions; and
  - 8.3.f.21. 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 vehicle;
  - 8.3.g.3. Discharge a firearm at night;
  - 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 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 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 hearings (e.g., Division of Motor Vehicles' 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 Investigation. -- In conducting traffic accident investigations, an entry-level officer may:

8.3.n.1. Collect physical evidence from an accident scene;

8.3.n.2. Complete the standard DMV traffic accident report form;

8.3.n.3. Determine contributing factors to an accident;

8.3.n.4. Diagram accident scenes;

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

8.3.n.6. Take precautions to prevent additional accidents at an accident 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 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;
- 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 (4) 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.3. Push-ups (Absolute Strength) - The score is the number of conventional push-ups performed in one (1) minute. A conventional push-up is defined as an exercise performed in the prone position by raising and lowering the body with the straightening and bending of the arms, while keeping the back straight and supporting the body on the hands and toes. The push-ups can

be done by the applicant either by:

8.6.d.3.A. Placing 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.3.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.4. One and one-half mile run (Cardiovascular Capacity) - The score is the elapsed time in minutes and seconds required by the applicant to complete the run.

8.6.e. Applicants who successfully completed all four (4) 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 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 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 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 lighting shall provide good visibility under normal environmental conditions. Day lighting shall be controllable by dark drapes or shades to permit the use of audio-visual training aids.

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, level tops of a width of not less than 20 inches. Tablet armchairs, if used, shall be of a size as to comfortably permit note taking.

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 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.

10.2. 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.

10.4. 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% 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 provided that sixteen (16) hours of the required twenty-four (24) hours may be in any subject area approved by the Committee and eight (8) of the required twenty-four (24) hours must be in a Committee approved supervisory level in-service training program.

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 Officers Standards and Training Commission approved basic entry-level training program; or equivalent federal law enforcement training;

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

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

14.1.e. d. Have made application for certification within ninety (90) calendar days of their date of employment via the equivalent training provision of the law; and

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

~~14.1.f.1.~~ 14.1.e.1. Firearms Training and Certification;

~~14.1.f.2.~~ 14.1.e.2. Defensive Driving;

~~14.1.f.3.~~ 14.1.e.3. Mechanics of Arrest;

~~14.1.f.4.~~ 14.1.e.4. Law of Arrest, Search and Seizure;

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

~~14.1.f.6.~~ 14.1.e.6. Criminal Law; and

~~14.1.f.7.~~ 14.1.e.7. Domestic Crimes.

14.2. Equivalent certification applicants shall submit a medical examination which shows they meet the requirements for admission to a basic entry-level training program, ~~and successfully~~

~~complete the physical ability test for entry into the required basic training classes.~~

14.3. 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.

14.4 The Law Enforcement Training Sub-committee shall form a subcommittee who will review all applications for equivalent certification. The equivalent certification sub-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 shall be a director of training of a training academy approved by the full sub-committee.

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

15.1. The purpose of this section is to establish guidelines for the retraining of certified 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. Non-performance of duties shall include any absence from duty regardless of remedies or status available to the 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. Police officers who have been separated from a law enforcement agency for twenty-four (24) months or less; who were certified under the provisions of W. Va. Code §30-29-5; and who have been re-appointed as a police officer by a law enforcement agency are not required to meet entrance level standards again if:~~

~~15.2.a. Within thirty (30) days from the date of employment the officer attends and completes the mandated in-service training for the period and rank; and~~

~~15.2.b. Within thirty (30) days from the date of employment the officer qualifies with his or her firearm.~~

~~15.3.~~ 15.2. Police officers 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 police officer 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 date of employment, the following courses:

~~15.3.a.~~ 15.2.a. Firearms Training and Certification;

~~15.3.b.~~ 15.2.b. Defensive Driving;

- ~~15.3.c.~~ 15.2.c. Mechanics of Arrest;
- ~~15.3.d.~~ 15.2.d. Law of Arrest, Search and Seizure;
- ~~15.3.e.~~ 15.2.e. West Virginia Motor Vehicle Law;
- ~~15.3.f.~~ 15.2.f. Criminal Law Update; and
- ~~15.3.g.~~ 15.2.g. Domestic Crimes.

~~15.4.~~ 15.3 Within ninety (90) calendar days of their date of employment, re-certification applicants to a basic entry-level training academy shall submit a medical examination which shows they meet the requirements for admission to a basic entry-level training program ~~and complete the physical ability test at the 40th percentile for entry into the required classes.~~

~~15.5.~~ 15.4 Applicants for equivalent 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.

15.5. The amendments to this section shall be applied retroactively. Any police officer who has been separated from a law enforcement agency, who is in good standing, and who was certified pursuant to the provisions of W. Va. Code §30-29-5; and who has been reappointed as a police officer or as a chief of police by a law enforcement agency, regardless of when they were separated from any such agency, shall be allowed to re-certify pursuant to the provisions of this section.

#### **§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 office 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.

**§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 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.