

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

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

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 NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE
MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT
BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE
FILED WITH THE SECRETARY OF STATE.

J. M. Albert (by L.B.)
Authorized Signature

12.30

TITLE 149
LEGISLATIVE RULES
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 the basic academy, annual in-service, and biennial in-service training standards.

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

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeals and replaces § 142-2-1 promulgated May 11, 1998.

§149-2-2. Definitions.

2.1. "Approved law enforcement training academy" means any training facility which is approved and authorized to conduct law enforcement training;

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

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

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

2.5. "Governor's Committee on Crime, Delinquency and Correction" or "Governor's Committee" means the Governor's Committee on Crime, Delinquency and Correction established as a state planning agency pursuant to W. Va. Code §15-9-1;

2.6. "Law enforcement officer" means any duly authorized member of a law enforcement agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests, and enforce the laws of the state or any county or municipality of this state, other than parking ordinances, and includes those persons employed as security officers at state institutions of higher education in accordance with the provisions of W. Va. Code §18B-4-5, although those institutions shall not be considered a law enforcement agency. The term also includes those persons employed as rangers by the Hatfield-McCoy Regional Recreation Authority in accordance with the provisions of W. Va. Code §20-14-6, although the authority may not be considered a law enforcement agency: Provided, that the subject rangers shall pay the tuition and costs of training. As used in this article, the term "law enforcement officer" does not apply to the chief executive of any West Virginia law enforcement agency or any watchman or special conservation officer;

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

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

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

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

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

3.1. 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.

3.1.a. 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.

3.1.b. 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 this minimum registration shall be at least twenty-by-thirty feet (20' x 30').

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

3.1.d. 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.

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

3.1.f. 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.

3.1.g. Display surfaces and chalkboards shall be positioned to permit unobstructed viewing from the rearmost area of the classroom. Chalkboards shall be at least forty inches by ninety inches (40" x 90") in dimension.

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

3.1.i. The following equipment shall be available and operable when an instructor starts the class presentation for which the following could be needed:

- 3.1.i.1. Sixteen (16) Millimeter Projector;
- 3.1.i.2. Thirty-five (35) Millimeter Slide Projector;
- 3.1.i.3. Overhead Projector;
- 3.1.i.4. Projection Screen (minimum size 40" x 60");
- 3.1.i.5. Television and VCR.

3.1.j. The firearm range shall meet or exceed all safety standards promulgated by the National Rifle Association. It shall permit both handgun and shotgun firing. It shall be located within reasonable driving distance from the academy site. It shall permit sole occupancy by law enforcement agencies when in use by them

for firearms training and/or qualification. Curriculum firearms training time does not include travel time if the range is more than a short walking distance from the facility.

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

3.1.l. Each facility shall include one room of sufficient size to accommodate trainees during the conduct of physical fitness, self-defense, and mechanics of arrest training.

3.1.m. Separate restroom facilities of sufficient size and number to accommodate the needs of both sexes shall be provided in close proximity to the classroom.

3.1.n. Adequate and free parking space shall be provided. The parking space shall be within reasonable walking distance of all classrooms.

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

3.1.o.1. Ammunition for firearms training;

3.1.o.2. Notebooks (three ring binders) in a sufficient number to accommodate all notes and handout materials;

3.1.o.3. Notebook indexes in a sufficient number to permit indexing of each individual notebook;

3.1.o.4. Legal pads in a sufficient number to permit taking of detailed notes throughout duration of training program;

3.1.o.5. A current copy of West Virginia Motor Vehicle Laws;

3.1.o.6. Pencils in a sufficient number to permit taking of detailed notes throughout the duration of the training program;

3.1.o.7. A copy of the course schedule;

3.1.o.8. A copy of the rules governing operation of the training facility;

and

3.1.o.9. Handout materials as required by various instructors.

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

3.1.p.1. If in-house food service is available and provided, all food preparation and dining facilities shall be established and maintained in accordance with applicable State Health Department rules.

3.1.p.2. If a training academy does not have food preparation and dining facilities and uses commercial food services, these services should be located within a distance which would allow the trainee to leave, eat, and return to class within sixty (60) minutes.

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

3.1.r. All newly hired and uncertified law enforcement officers shall apply for admission to a basic entry level training program within 90 calendar days of their date of employment.

3.1.s. Application to a basic entry level training program means submission of a complete academy application consisting of an application sheet, true and accurate medical history statement, complete medical examination report, and fingerprint cards (federal and state) received and accepted by an academy within 90 calendar days of the applicant's date of employment. An applicant shall resubmit a complete and

medically acceptable application within the applicant's 90-calendar day employment period.

3.1.t. Any officer failing to file or have filed on his or her behalf an academy application within the 90-calendar day period shall be immediately terminated as a law enforcement officer.

3.1.u. An applicant may file or have filed on his or her behalf a request for an extension of the 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.

3.1.v. 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.

§149-2-4. Academy Training Curriculum.

4.1. 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.

4.2. 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.

4.3. As necessary the core curriculum shall be amended to more nearly meet the needs of the largest possible number of law enforcement agencies. Changes in the approved core curriculum require prior approval of the Governor's Committee on

Crime, Delinquency and Correction. Recommendations for change shall be made in writing to the committee.

§149-2-5. Staffing.

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

5.1.a. Approval of the Director of Training is required by the Governor's Committee. Approval of the Director of Training is based on a composite assessment of the candidates' education, training, administrative and law enforcement experience.

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

5.1.b.1. Compliance of all personnel with policies, procedures and regulations governing the training academy as training programs;

5.1.b.2. The selection of qualified instructors;

5.1.b.3. Recommending and requesting the reassignment of training personnel;

5.1.b.4. The maintenance of the professional skills and abilities of personnel assigned to the training program;

5.1.b.5. Requiring high quality performance of all personnel assigned a training function. It is the Training Director's continuing responsibility to see that

instructors are assigned only those topics, which they are qualified to teach, and are supervised on a regular basis to ensure that a high quality of instruction is maintained.

5.1.c. In general, the Training Director has that authority necessary to carry out assigned responsibilities. The Training Director shall:

5.1.c.1. Require all applicants to provide an acceptable medical examination and complete the physical fitness test battery at the 40th percentile for entry into a basic entry-level training program. If an officer fails the medical examination, he or she may, after correcting his or her medical deficiency and with proof by proper medical documentation, reapply to the next scheduled basic program;

5.1.c.2. Exercise administrative and supervisory control over personnel;

5.1.c.3. Recommend and request reassignment of training personnel;

5.1.c.4. Dismiss trainees;

5.1.c.5. Excuse absences of trainees; and

5.1.c.6. Delegate authority.

5.1.d. The Director 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 is accountable to the Law Enforcement Training Subcommittee to keep it informed regarding the training program. Normally this will be accomplished through progress reports. However, the Director may occasionally be asked to appear to discuss with the subcommittee, or requested to appear to discuss the training program and make recommendations regarding it.

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

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

5.2.b. A high school diploma or its equivalent;

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

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

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

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

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

5.4. Members of the Bar, the medical profession and other similar professions; high school, community or junior college, college and university faculty members; certified emergency medical care or advanced first aid instructors; and employees of

United States governmental agencies; or of state or local agencies which have police regulatory power and whose training assignments are of such short duration as to make certification impractical, are exempt from the certification process.

5.5. Certified law enforcement instructors shall instruct at least a two (2) hour block in a Subcommittee certified in-service program every twenty-four (24) months from date of their original certification in order to keep their instructor certification active, or 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.

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

5.7. Firearms instructors shall instruct at least a two (2) hour block in a department recognized firearms certification program, either in a firearms associated classroom presentation or actually on the firearms range every twenty-four (24) months from the date of their original instructor certification in order to keep their instructor certification active; or 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.

5.8. Firearms instructors placed on inactive status 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.

5.9. The Governor's Committee on Crime, Delinquency and Correction, at its discretion and upon the recommendation of the Law Enforcement Training Subcommittee, may waive any 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.

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

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

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

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

5.11.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

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

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

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

5.13. 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. 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, for serious illness or death in the officer's immediate family, or for other cause approved by the Director. An unexcused absence constitutes grounds for dismissal. Work missed while absent shall be made up.

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

6.3. The minimum passing grade on 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 three to five 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 which will be recorded on the individual's class record.

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

6.5.b. Any person dismissed for reasons other than scholastic failure may appeal this dismissal. (For the purpose of this rule, scholastic failure means the failure of required graded academic examinations or evaluated skill courses). The initial appeal shall be to the head of the agency or department sponsoring the training. If necessary, a subsequent appeal shall be to the Governor's Committee on Crime, Delinquency and Correction in accordance with the Administrative Procedures Act. W. Va. Code §29A-3-1 et. seq.

6.6. 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 shall be paid for by the employing agency.

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

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

§149-2-7. Academy Entry Standards.

7.1. This section establishes the process and qualifications for entry into a basic entry level training program, including but not limited to, demonstration of the ability to perform all essential tasks and functions contained in the job description, through medical standards, and physical ability standards. 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. All requests for a reasonable accommodation for entry into a basic entry level training program may be considered by a review panel appointed by the Law Enforcement Training Subcommittee of the Governor's Committee on Crime, Delinquency and Correction. The review panel's decision shall be based on the job description of a basic entry level law enforcement officer.

7.1.a. Job Description: Entry Level Law Enforcement Officer.

7.1.a.1. 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.

7.1.a.2. Essential Function - Arrest and Detain Persons.

7.1.a.2.A. An entry level officer may:

7.1.a.2.A.1. Advise persons of constitutional rights (Miranda Warning);

7.1.a.2.A.2. Arrest persons with a warrant;

7.1.a.2.A.3. Arrest persons without a warrant (non-traffic);

7.1.a.2.A.4. Conduct temporary detention ("stop and frisk") of suspicious persons;

7.1.a.2.A.5. Execute felony motor vehicle stop;

7.1.a.2.A.6. Investigate a suspicious vehicle;

7.1.a.2.A.7. Plan how to make and execute arrests;

7.1.a.2.A.8. Prepare information and complaint for the filing of charges following an arrest (criminal investigation);

7.1.a.2.A.9. Review warrants for completeness and accuracy;

7.1.a.2.A.10. Obtain arrest warrants and/or make proper their return;

7.1.a.2.A.11. Check for wants or warrants on persons through DMV/NCIC.

7.1.a.3. Essential Function - Protect Crime Scene and Collect Evidence and Information.

7.1.a.3.A. An entry level officer may:

7.1.a.3.A.1. Collect evidence and personal property from a crime scene;

7.1.a.3.A.2. Diagram crime scenes;

7.1.a.3.A.3. Document the chain of custody for evidence;

7.1.a.3.A.4. Dust and lift latent fingerprints;

7.1.a.3.A.5. Examine evidence and personal property from crime scenes to determine their importance;

7.1.a.3.A.6. Package evidence or personal property;

7.1.a.3.A.7. Use a camera (35mm/video camera, etc.);

7.1.a.3.A.8. Protect a crime scene until specialized or back-up assistance arrives;

7.1.a.3.A.9. Record location of physical evidence and fingerprints at the scene;

7.1.a.3.A.10. Secure the crime scene;

7.1.a.3.A.11. Initial, mark, and label evidence;

7.1.a.3.A.12. Determine the area of the crime scene;

7.1.a.3.A.13. Search crime scenes for physical evidence;

7.1.a.3.A.14. Search dead bodies for personal property and evidence;

7.1.a.3.A.15. Recover and inventory stolen property; and

7.1.a.3.A.16. Tag evidence and confiscated property.

7.1.a.4. Essential Function - Enforce DUI/Traffic Laws.

7.1.a.4.A. An entry level officer may:

7.1.a.4.A.1. Observe persons to recognize signs of drug or alcohol intoxication;

7.1.a.4.A.2. Make custodial traffic arrests (e.g., DUI);

7.1.a.4.A.3. Administer roadside sobriety tests;

7.1.a.4.A.4. Fill out a warrant application to obtain DUI related blood or urine sample;

7.1.a.4.A.5. Arrange for obtaining a blood or urine sample for blood alcohol content (BAC);

7.1.a.4.A.6. Arrest DUI suspects;

7.1.a.4.A.7. Determine probable cause to execute a DUI stop;

7.1.a.4.A.8. Operate a "breathalyzer/intoxilyzer" type instrument to test blood or alcohol content;

7.1.a.4.A.9. Investigate hit and run violations;

7.1.a.4.A.10. Investigate a traffic accident scene to identify points of impact;

7.1.a.4.A.11. Record statements of witnesses to traffic accidents;

7.1.a.4.A.12. Assist trapped persons;

7.1.a.4.A.13. Direct a moving vehicle out of a line of traffic to execute a vehicle stop; and

7.1.a.4.A.14. Stop vehicles to arrest, cite or warn occupants.

7.1.a.5. Essential Function - Operate Patrol Vehicle.

7.1.a.5.A. An entry level officer may:

7.1.a.5.A.1. Engage in emergency driving in a congested area;

7.1.a.5.A.2. Engage in high speed pursuit or response driving off road;

7.1.a.5.A.3. Engage in high speed pursuit or response driving on an open road;

7.1.a.5.A.4. Respond to crime in progress calls; and

7.1.a.5.A.5. Operate portable and car radio equipment.

7.1.a.6. Essential Function - Conduct Search and Seizure.

7.1.a.6.A. An entry level officer may:

7.1.a.6.A.1. Obtain warrants and/or make proper return;

7.1.a.6.A.2. Plan, organize, and conduct raids;

7.1.a.6.A.3. Observe a person's body language to assess intentions and attitudes;

7.1.a.6.A.4. Conduct a field search of arrested persons;

7.1.a.6.A.5. Conduct a frisk or pat down;

7.1.a.6.A.6. Search a movable automobile under independent probable cause;

7.1.a.6.A.7. Search persons in accordance with a court order (e.g., blood sample, hair sample);

7.1.a.6.A.8. Search premises or property incident to an arrest;

7.1.a.6.A.9. Search premises or property in hot pursuit or emergency situations;

7.1.a.6.A.10. Search premises or property with consent;

7.1.a.6.A.11. Search premises or property with a warrant;

7.1.a.6.A.12. Seize contraband; and

7.1.a.6.A.13. Search for a person in a darkened building or environment.

7.1.a.7. Essential Function - Use Physical Force to Control Persons.

7.1.a.7.A. An entry level officer may:

7.1.a.7.A.1. Confront, in a riot formation, groups of agitated people;

7.1.a.7.A.2. Control hostile groups (e.g., demonstrators, rioters);

7.1.a.7.A.3. Use holds or devices to control or take a suspect down;

7.1.a.7.A.4. Tackle a fleeing suspect;

7.1.a.7.A.5. Physically subdue an attacking person;

7.1.a.7.A.6. Use weaponless defense tactics;

7.1.a.7.A.7. Subdue a person resisting arrest;

7.1.a.7.A.8. Use body pressure points to control a person;

7.1.a.7.A.9. Disarm a violent armed suspect;

- 7.1.a.7.A.10. Pull person out of vehicle who is resisting arrest;
- 7.1.a.7.A.11. Strike a person with side-handled baton;
- 7.1.a.7.A.12. Strike a person with straight baton;
- 7.1.a.7.A.13. Use a hammerlock to hold person;
- 7.1.a.7.A.14. Use submission holds to control a person;
- 7.1.a.7.A.15. Locate and observe crowd agitators;
- 7.1.a.7.A.16. Patrol riot stricken or civil disturbance areas;
- 7.1.a.7.A.17. Physically restrain a crowd;
- 7.1.a.7.A.18. Catch a falling person to prevent injury;
- 7.1.a.7.A.19. Use body language to project control and influence a situation;
- 7.1.a.7.A.20. Use voice commands to project control and direct actions; and
- 7.1.a.7.A.21. Hold a flashlight in one hand while performing various police duties.

7.1.a.8. Essential Function - Use Deadly Weapons.

7.1.a.8.A. An entry level officer may:

- 7.1.a.8.A.1. Clean and inspect weapons;
- 7.1.a.8.A.2. Discharge a firearm at moving vehicle;
- 7.1.a.8.A.3. Discharge a firearm at night;
- 7.1.a.8.A.4. Discharge a firearm at a person;

7.1.a.8.A.5. Draw a weapon to protect himself or herself or a third party;

7.1.a.8.A.6. Participate in firearms training;

7.1.a.8.A.7. Secure a firearm when off duty (e.g., home);

7.1.a.8.A.8. Fire a weapon in a dark environment with a flashlight in one hand;

7.1.a.8.A.9. Fire a weapon in night-time combat (not including training);

7.1.a.8.A.10. Fire a weapon in day-time combat (not including training);

7.1.a.8.A.11. Carry a firearm when off duty; and

7.1.a.8.A.12. Discharge a weapon at an animal.

7.1.a.9. Essential Function - Provide Emergency Assistance.

7.1.a.9.A. An entry level officer may:

7.1.a.9.A.1. Determine existence of hazardous materials at the scene of a wreck (e.g., train, vehicle, etc.);

7.1.a.9.A.2. Evacuate persons from dangerous areas (e.g., fire, chemical accident, etc.);

7.1.a.9.A.3. Secure accident and disaster scenes;

7.1.a.9.A.4. Administer cardio-pulmonary resuscitation (CPR);

7.1.a.9.A.5. Administer mouth-to-mouth resuscitation;

7.1.a.9.A.6. Apply basic first aid to control bleeding;

- 7.1.a.9.A.7. Apply basic first aid to treat for amputations;
- 7.1.a.9.A.8. Apply basic first aid to treat for choking (e.g., Heimlich Method);
- 7.1.a.9.A.9. Talk with a person attempting suicide to get him or her to stop or delay the attempt.
- 7.1.a.9.A.10. Use protective gear to prevent contact with infectious diseases;
- 7.1.a.9.A.11. Take a mentally deranged person into custody for his or her own protection;
- 7.1.a.9.A.12. Mediate family disputes;
- 7.1.a.9.A.13. Fire a weapon in a dark environment with flashlight in one hand;
- 7.1.a.9.A.14. Pull person out of a vehicle to perform a rescue; and
- 7.1.a.9.A.15. Place children in protective custody (e.g., child abuse).

7.1.a.10. Essential Function - Conduct Initial and Follow-Up Investigation of Various Crimes and Events.

7.1.a.10.A. An entry level officer may:

- 7.1.a.10.A.1. Conduct complete criminal investigations;
- 7.1.a.10.A.2. Respond to and conduct preliminary investigation of events related to:
 - 7.1.a.10.A.2.(a) Homicide;

- 7.1.a.10.A.2.(b) Rape;
- 7.1.a.10.A.2.(c) Malicious wounding;
- 7.1.a.10.A.2.(d) Attempted murder;
- 7.1.a.10.A.2.(e) Burglary;
- 7.1.a.10.A.2.(f) Theft;
- 7.1.a.10.A.2.(g) Motor vehicle theft/attempt;
- 7.1.a.10.A.2.(h) Arson and bombing/attempts;
- 7.1.a.10.A.2.(i) Weapon and firearms offenses;
- 7.1.a.10.A.2.(j) Sex offenses;
- 7.1.a.10.A.2.(k) Controlled substances;
- 7.1.a.10.A.2.(l) Family offenses;
- 7.1.a.10.A.2.(m) Domestic violence;
- 7.1.a.10.A.2.(n) DUI – Intoxicants and drugs;
- 7.1.a.10.A.2.(o) Fatal traffic accidents;
- 7.1.a.10.A.2.(p) Vehicular homicide;
- 7.1.a.10.A.2.(q) Vehicular assault;
- 7.1.a.10.A.2.(r) Firearm accidents;
- 7.1.a.10.A.2.(s) Death/bodies found; and
- 7.1.a.10.A.2.(t) Disasters.

7.1.a.10.A.3. Conduct on-the-scene suspect identifications
(e.g., show-up or one-on-one suspect identification);

7.1.a.10.A.4. Conduct stationary surveillance of individuals or
locations;

7.1.a.10.A.5. Determine whether incidents are criminal or civil matters;

7.1.a.10.A.6. Determine whether recovered property is linked with a previous crime; and

7.1.a.10.A.7. Exchange necessary information with other law enforcement officials (including intelligence information).

7.1.a.11. Essential Function - Write and Read Reports and Other Documents.

7.1.a.11.A. An entry level officer may:

7.1.a.11.A.1. Complete an initial offense report;

7.1.a.11.A.2. Complete arrest reports;

7.1.a.11.A.3. Complete a criminal investigation report of felonies; and

7.1.a.11.A.4. Record confessions in writing.

7.1.a.12. Essential Function - Present Testimony.

7.1.a.12.A. An entry level officer may:

7.1.a.12.A.1. Present evidence in legal proceedings;

7.1.a.12.A.2. Review reports and notes prior to court testimony;

7.1.a.12.A.3. Testify at evidence suppression hearings;

7.1.a.12.A.4. Testify at probable cause preliminary hearings;

7.1.a.12.A.5. Testify before grand juries;

7.1.a.12.A.6. Testify in criminal trials; and

7.1.a.12.A.7. Testify in court at implied consent hearings

(e.g., Division of Motor Vehicles' drivers license revocation, breath test refusal):

7.1.a.13. Essential Function - Transport Persons in Custody.

7.1.a.13.A. An entry level officer may:

7.1.a.13.A.1. Operate a vehicle to transport prisoners; and

7.1.a.13.A.2. Search a vehicle for weapons and/or

contraband (e.g., before and after prisoner transport).

7.1.a.14. Essential Function - Conduct Interviews and Interrogations.

7.1.a.14.A. An entry level officer may:

7.1.a.14.A.1. Interrogate adult suspects;

7.1.a.14.A.2. Interview complainants, witnesses, etc.;

7.1.a.14.A.3. Interview victims of sex crimes.

7.1.a.14.A.4. Interrogate a suspect or witness with use of

polygraph results;

7.1.a.14.A.5. Interview informants;

7.1.a.14.A.6. Take statements of witnesses; and

7.1.a.14.A.7. Interrogate juvenile suspects.

7.1.a.15. Essential Function - Conduct Traffic Accident Investigation.

7.1.a.15.A. An entry level officer may:

7.1.a.15.A.1. Collect physical evidence from an accident scene;

7.1.a.15.A.2. Complete the standard DMV traffic accident report form;

- 7.1.a.15.A.3. Determine contributing factors to an accident;
- 7.1.a.15.A.4. Diagram accident scenes;
- 7.1.a.15.A.5. Protect traffic accident physical evidence for collection; and
- 7.1.a.15.A.6. Take precautions to prevent additional accidents at an accident scene.

7.1.a.16. Equipment Used in the Performance of Essential Tasks.

7.1.a.16.A. An entry level officer may use:

- 7.1.a.16.A.1. A roadside alcohol breath test;
- 7.1.a.16.A.2. An automobile;
- 7.1.a.16.A.3. A baton;
- 7.1.a.16.A.4. Body armor;
- 7.1.a.16.A.5. A fire extinguisher;
- 7.1.a.16.A.6. A first aid kit;
- 7.1.a.16.A.7. Road glares;
- 7.1.a.16.A.8. A flashlight;
- 7.1.a.16.A.9. Flexicuffs;
- 7.1.a.16.A.10. Handcuffs;
- 7.1.a.16.A.11. A handheld police radio;
- 7.1.a.16.A.12. A police car radio;
- 7.1.a.16.A.13. A public address system;
- 7.1.a.16.A.14. A radar unit;
- 7.1.a.16.A.15. A semi-automatic pistol;

- 7.1.a.16.A.16. A shot gun;
- 7.1.a.16.A.17. Lights and sirens;
- 7.1.a.16.A.18. Rubber gloves;
- 7.1.a.16.A.19. Ammunition and ammunition magazines; and
- 7.1.a.16.A.20. Weapon cleaning equipment.

7.1.b. Medical Standards.

7.1.b.1. All applicants for entry into a basic entry level training program shall submit to a medical examination by a licensed physician chosen by and at the expense of the employing agency.

7.1.b.2. 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); and physician's certification of fitness. The medical examination shall consist of selection criteria aimed at identifying conditions that may potentially exclude an applicant from entry into a basic entry level training program. Applicants employed by a law enforcement agency, which falls under W. Va. Code §8-22-16, are required to meet medical standards of the National Fire Protection Standards 1582 - "Medical Requirements for Fire Fighters" for entry into a basic entry level training program. The Medical History Statement and Medical Examination Report are valid for a period of one year from the date of the signature of the examining physician on the State of Condition

page of the Medical Examination Report. The following conditions may be cause to exclude an applicant from consideration for acceptance, except where specifically noted. 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 using the job description and medical standards for entry into a basic entry level training program as a basis of their decision on the request for reasonable accommodation.

7.1.b.3. Eyes and Vision.

7.1.b.3.A. Visual Acuity - An applicant's uncorrected distant vision may be equal to but not worse than 20/100 in the weaker eye, and shall be correctable to better than, or equal to, 20/30 (Snellen) in each eye. Means of correction must be worn on the job and 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.

7.1.b.3.A.1. Far visual acuity shall be at least 20/30 binocular with contact lenses or spectacles. Far visual acuity uncorrected shall be at least 20/100 binocular for wearers of hard contacts or spectacles. Successful long-term soft contact lens wearers (six months without a problem) are not subject to the uncorrected standard.

7.1.b.3.A.2. Ophthalmological procedures such as radial keratotomy, repair of retinal detachment. Sufficient time (i.e., six months) shall have passed to allow stabilization of visual acuity and to ensure that there are no postsurgical complications.

7.1.b.3.B. Visual Acuity - Color Vision: The applicant shall pass a "controlled color discrimination test", such as, United States Department of Transportation Color Vision Examination.

7.1.b.3.C. Visual Acuity - Depth Perception: An applicant's depth perception should be sufficient to demonstrate normal stereo depth perception with or without correction to the standard: 80 ARC seconds.

7.1.b.3.D. 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.

7.1.b.4. Ears and Hearing.

7.1.b.4.A. Hearing Acuity - Using an audiometer, the applicant should have no average loss of 25 or more decibels at the 500, 1000, 2000, and 3000 Hertz (Hz) levels in either ear with no single frequency loss in excess of 40.

7.1.b.4.B. Acute Otitis Media, Otitis Externa, and Mastoiditis - If the applicant meets hearing acuity guidelines and the condition is resolved, then these conditions are non-disqualifying.

7.1.b.4.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.

7.1.b.5. Nose, Throat, and Mouth.

7.1.b.5.A. Loss of sense of smell;

7.1.b.5.B. Aphonia, speech loss or speech defects; and

7.1.b.5.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, then the condition is non-excludable.

7.1.b.6. Peripheral Vascular System.

7.1.b.6.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 performance of 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.

7.1.b.6.B. Peripheral Vascular Abnormality - Any condition which is severe and/or symptomatic may cause the applicant to be excluded, e.g., arterial insufficiency, deep or superficial vein thrombophlebitis, or Raynaud's Disease.

7.1.b.7. Heart and Cardiovascular System.

7.1.b.7.A. Congenital Heart Disease - If the applicant's functional work capacity is unimpaired, then the condition may not cause the applicant to be excluded.

7.1.b.7.B. Valvular Heart Disease - Includes significant valvular insufficiency, significant septal defects (any valve), and prolapsing mitral valve (symptomatic).

7.1.b.7.C. Coronary Artery Disease.

7.1.b.7.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.

7.1.b.7.E. Angina;

7.1.b.7.F. Congestive Heart Failure;

7.1.b.7.G. Cardiomyopathy; and

7.1.b.7.H. Pericarditis, Endocarditis, and Myocarditis.

7.1.b.8. Respiratory System.

7.1.b.8.A. The applicant's respiratory system shall be free of chronically disabling conditions that would interfere with the applicant's ability to perform essential job tasks;

7.1.b.8.B. Infectious or potentially infectious Pulmonary Tuberculosis;

7.1.b.8.C. Chronic Bronchitis;

- 7.1.b.8.D. Chronic Obstructive Pulmonary Disease;
- 7.1.b.8.E. Emphysema;
- 7.1.b.8.F. Restrictive Lung Diseases;
- 7.1.b.8.G. Bronchiectasis and Pneumothorax (current or repeated history);
- 7.1.b.8.H. Pneumonectomy;
- 7.1.b.8.I. Acute Mycotic diseases - Including but not limited to coccidiomycosis and histoplasmosis;
- 7.1.b.8.J. Acute Pleurisy;
- 7.1.b.8.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.

7.1.b.9. Gastrointestinal System.

7.1.b.9.A. Colitis - Including but not limited to Crohn's Disease, Ulcerative Colitis, Irritable Bowel Syndrome (symptomatic or needing medication), Bacterial Colitis;

7.1.b.9.B. Diverticulitis;

7.1.b.9.C. Esophageal disorders - Including, but not limited to, Esophageal Stricture, Lower Esophageal Ring and Esophageal Spasm. If the applicant's condition is controlled, the condition is non-disqualifying;

7.1.b.9.D. Pancreatitis;

7.1.b.9.E. Gall Bladder disorders;

7.1.b.9.F. Active Peptic Ulcers;

7.1.b.9.G. Symptomatic Inguinal, Umbilical, Ventral, Femoral, or Incisional Hernias;

7.1.b.9.H. Malignant Disease of the Liver, Gall Bladder, Pancreas, Esophagus, Stomach, Small or Large Bowel, Rectum, or Anus;

7.1.b.9.I. Gastrointestinal Bleeding;

7.1.b.9.J. Active or Chronic Hepatitis;

7.1.b.9.K. Cirrhosis of the Liver; and

7.1.b.9.L. Motility Disorders, e.g., Scleroderm.

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

7.1.b.10. Genitourinary System.

7.1.b.10.A. The examining physician is to note any conditions, which may interfere with the applicant's ability to perform essential job tasks;

7.1.b.10.B. Pregnancy - The examining physician should record that the applicant is pregnant;

7.1.b.10.C. Nephrectomy - If an applicant possesses this condition with normal natural renal function, then the condition is non-disqualifying;

7.1.b.10.D. Acute Nephritis;

7.1.b.10.E. Nephrotic Syndrome;

7.1.b.10.F. Acute Renal/Urinary Calculi;

7.1.b.10.G. Renal Transplant;

7.1.b.10.H. Renal Failure;

7.1.b.10.I. Hydrocele and Varicocele (Symptomatic);

7.1.b.10.J. Malignant Diseases of Bladder, Kidney, Ureter, Cervix, Ovaries, Breasts, Prostate, etc.;

7.1.b.10.K. Active Venereal Diseases;

7.1.b.10.L. Urinary Tract Infection;

7.1.b.10.M. Polycystic Kidney Disease;

7.1.b.10.N. Pelvic Inflammatory Disorders;

7.1.b.10.O. Endometriosis;

7.1.b.10.P. Inflammatory Disorders, e.g., prostatitis, orchitis, epididymitis; and

7.1.b.10.Q. Scleroderma.

7.1.b.11. Endocrine and Metabolic Systems.

7.1.b.11.A. Uncontrolled Thyroid Disease;

7.1.b.11.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;

7.1.b.11.C. Adrenal Dysfunction - Including but not limited to Addison's Disease and Cushing's Disease;

7.1.b.11.D. Insulin Reactions; and

7.1.b.11.E. Untreated Thyroid Malignancy.

7.1.b.12. Musculoskeletal System.

7.1.b.12.A. The examining physician is to note any condition that may interfere with the applicant's ability to perform essential job tasks;

7.1.b.12.B. Disorders that limit motor function;
7.1.b.12.C. Cervical Spine or Lumbar Sacral Fusion;
7.1.b.12.D. Degenerative Cervical or Lumbar Disc Disease (if symptomatic);

7.1.b.12.E. Extremity amputation;
7.1.b.12.F. Osteomyelitis;
7.1.b.12.G. Muscular Dystrophy;
7.1.b.12.H. Loss in the motor ability from tendon or nerve injury/surgery - In an area relevant to the applicant's performing the essential tasks of the job;

7.1.b.12.I. Arthritis - If the applicant possesses this condition with no functional impairment, then the condition is non-excludable;

7.1.b.12.J. Coordinated balance;

7.1.b.12.K. Symptomatic Herniated Disc; and

7.1.b.12.L. Spinal Deviations.

7.1.b.13. Hematopoietic and Lymphatic Systems.

7.1.b.13.A. Hematopoietic disorders (including malignancies), e.g., SCD, thalassemia, G6PSD, etc.; and

7.1.b.13.B. Hemophilia.

7.1.b.14. Nervous System.

7.1.b.14.A. The applicant shall be free of any disorder that may interfere with performing the duties attendant to the position of a basic entry level officer;

- 7.1.b.14.B. Seizure disorder (all types);
- 7.1.b.14.C. Cerebral Palsy;
- 7.1.b.14.D. Movement disorders, e.g., Parkinson's;
- 7.1.b.14.E. Cerebral Aneurysms;
- 7.1.b.14.F. Syncope;
- 7.1.b.14.G. Progressive Neurological Diseases - Including but not limited to Multiple Sclerosis and Huntington's Chorea;
- 7.1.b.14.H. Peripheral Nerve Disorder - Including but not limited to Polyneuritis, Mononeuritis, and Neurofibromatosis;
- 7.1.b.14.I. Narcolepsy;
- 7.1.b.14.J. Cerebral vascular accident; and
- 7.1.b.14.K. Central nervous system infections.

7.1.b.15. Any condition that requires further evaluation beyond that offered by the applicant's physician shall be conducted at the applicant's expense.

7.1.c. Physical Ability Standards.

7.1.c.1. All applicants for basic entry level training are required to perform at the 40th percentile of ability as a pass/fail screening for entry into a basic entry level training program.

7.1.c.2. This battery of screening elements, based on the significant work of the Cooper Institute for Aerobics Research, indicates an applicant's ability to satisfactorily perform the essential job task. Standards for successful completion of ability screening tests shall be determined by the Governor's Committee on Crime, Delinquency and Correction based on generally accepted ability standards.

7.1.c.3. The four (4) elements of the test battery are designed to confirm the physical ability to perform recruit level training and perform the essential tasks of policing. They are not job task simulations, but rather are construct validation of the candidate's capacity to learn and perform essential physical tasks. Applicants 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. 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. For the purpose of this rule, non-law enforcement means that 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 Subsection 149-2-7.1.a. of this rule.

7.1.c.4. The physical ability tests shall consist of:

7.1.c.4.A. Sit-ups (Muscular Endurance) - The score is the number of bent-leg sit-ups performed in one (1) minute.

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

7.1.c.4.C. Push-ups (Absolute Strength) - The score is the number of conventional push-ups performed in one (1) minute. A conventional push-up is defined as an exercise performed in the prone position by raising and lowering the body with the straightening and bending of the arms, while keeping the back straight and supporting the body on the hands and toes.

7.1.c.4.D. One and one-half mile run (Cardiovascular Capacity) - The score is the elapsed time in minutes and seconds required by the applicant to complete the run.

7.1.d. Applicants who successfully completed all four elements of the physical ability test may use the passage of this test for entry into the first available basic entry level training program. The results of the physical ability test are valid for a period of six months.

7.1.e. 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.

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

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

8.1. Standards for annual in-service and biennial supervisory level training facilities are similar to those for basic training but are less rigid because of the short duration and narrower scope of the training programs. All in-service programs approved and supported by the Governor's Committee on Crime, Delinquency and Correction 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.

8.2. 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.

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

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

8.5. 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.

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

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

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

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

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

8.11. Separate restrooms for both sexes shall be available.

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

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

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

9.2. It 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 night firing for qualification.

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

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

9.5. 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. It may be carried out in one (1) or more of the following manners:

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

9.5.b. Through regionally developed curricula with programs conducted at locations within the regions;

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

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

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

9.7. Regulations of the host agency shall govern the conduct of the training program; however, each officer is required to attend and complete the full eight (8) hour program and, if examinations are given, attain at least 70%.

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

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

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

10.3. It 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 night firing for qualification.

§149-2-11. Supervisory Training Curriculum.

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

11.2. Curricula for supervisory training requires prior approval and should include 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 objectives.

§149-2-12. Staffing.

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

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

13.1. The certification of each law enforcement officer is reviewed annually following the first certification and until 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.

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

13.3. The Governor's Committee shall receive pertinent information from law enforcement agencies, basic training academies and individual officers. Law enforcement agency heads shall provide within ten working days written notice of 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.

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

13.5. 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.

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

§149-2-14. Equivalent Certification.

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

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

14.1.b. Have been certified as a law enforcement officer in the state 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. 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. 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. 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. Firearms Training and Certification;

14.1.f.2. Defensive Driving;

14.1.f.3. Mechanics of Arrest;

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

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

14.1.f.6. Criminal Law; and

14.1.f.7. Domestic Crimes.

14.2. Equivalent certification applicants shall submit an acceptable medical examination 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 for credit.

§149-2-15. Recertification Requirements

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

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

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

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

15.2.a. Firearms Training and Certification;

15.2.b. Defensive Driving;

15.2.c. Mechanics of Arrest;

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

15.2.e. West Virginia Motor Vehicle Law;

15.2.f. Criminal Law Update; and

15.2.g. Domestic Crimes.

15.3. Within 90 calendar days of their date of employment, recertification applicants to a basic entry level training academy shall submit an acceptable medical examination and complete the physical ability test at the 40th percentile for entry into those required classes.

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

15.5. The purpose of this section is to establish guidelines for the retraining of certified officers who have not performed the duties of a law enforcement officer as defined in Subsection 7.1.a. of this rule and who have not obtained mandated in-service training as required by Subsections 9.1. and 10.2. of this rule or qualified with their weapon as outlined in Subsection 9.2. and 10.3. of this rule for a specified period of time. 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.

§149-2-16. Certification Denial.

16.1. The Governor's Committee on Crime, Delinquency and Correction, upon the recommendation of the Law Enforcement Training Subcommittee, may suspend,

revoke, or deny certification of a law enforcement officer or, if applicable, deny admission to a basic entry level training academy for:

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;

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

16.1.d. Conviction 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. Conduct or pattern of conduct which would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement;

16.1.f. Failure to participate in mandated in-service training; or

16.1.g. Legal prohibitions which prevent an officer from performing some or all of his/her required law enforcement duties.

16.2. For the purpose of this rule "conviction" includes a conviction from this state or any other federal or state jurisdiction, including one that has been expunged, dismissed, or treated in a similar manner to either of these procedures and applies to convictions entered both before and after the effective date of this section.

16.3. 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 outlined in this rule.

16.4. 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 outlined in this rule.

16.5. 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.

16.6. This rule precludes an agency from seeking decertification of a law enforcement officer prior to or in lieu of termination by the employing agency.



FILED

Nov 16 12 15 PM '98

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: James M. Albert
Division of Criminal Justice
1204 Kanawha Blvd, East
Charleston, WV 25301

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Law Enforcement Training Standards, 149CSR2**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed _____
 - (b) as modified by the agency _____
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____

ANALYSIS OF PROPOSED LEGISLATIVE RULES

DAG

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

Subject: Law Enforcement Training Standards, 149CSR2

PERTINENT DATES

Filed for public comment: June 30, 1998
Public comment period ended: July 30, 1998
Filed following public comment period: August 3, 1998
Filed LRMRC: August 3, 1998
Filed as emergency:

Fiscal Impact: None

FILED
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OFFICE OF THE
SECRETARY OF STATE
VIRGINIA

ABSTRACT

The proposed rule amends a current legislative rule. The following is a synopsis of the substantive amendments.

Section 14 provides for equivalent certification. It sets forth basic entry level courses which an applicant for certification must take on a part time basis within the 12 months following employment. Domestic crimes has been added to the list of courses.

Section 15 contains recertification requirements for police officers who have been separated from their employment for more than 24 months and who were certified under the provisions of WVC §30-29-5. It sets forth basic entry level courses which an applicant for recertification must take within the 12 months following employment. Domestic crimes has been added to the list of courses.

Section 16 permits the Governor's Committee to suspend, revoke or deny certification fro certain specified reasons. It has been amended to allow the Committee, where applicable, to deny admission to a basic entry level training academy. The specified circumstances for which a certification may be denied, suspended or revoked have been completely rewritten.

AUTHORITY

Statutory authority: W.Va. Code, §30-29-3, which provides, in part, as follows:

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

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

Yes. The proposed rule needs to be completely rewritten to make it more understandable. There is no transition between the statute and the proposed rule nor is there internal transition. In Counsel's opinion, the provisions of the proposed rule could also be organized more logically. Additionally, some of the provisions have no meaning and need language added to clarify them.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has technical modifications to suggest.