



APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Law Enforcement Training Standards

Rule Title: \_\_\_\_\_  
 Type of Rule:  Legislative  Interpretive  Procedural  
 Agency: Governor's Committee on Crime, Delinquency and Correction  
 Address: 1204 Kanawha Boulevard East, Charleson, WV 25301  
Executive Director: J. Norbert Federspiel  
 \_\_\_\_\_  
 Phone Number: (304) 558-8814 ext 53335 Email: J.Norbert.Federspiel@wv.gov

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The changes in this legislative rule series, CSR 149-2, will have no impact on costs and revenue of state government.

**Fiscal Note Detail**

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

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

Law Enforcement Training Standards

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

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

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

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

Not applicable. There are no costs or impact upon revenue

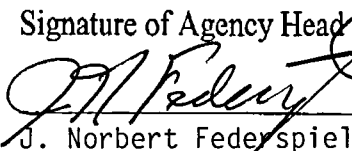
**MEMORANDUM**

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The proposed changes to this rule will have no fiscal impact as the changes clarify the process of law enforcement officer certification in West Virginia. The proposed changes/clarification do not require any fees to be created or create/reduce work loads addressing the certification process that have not already been addressed within the State budget.

Date: July 28, 2011

Signature of Agency Head or Authorized Representative

  
\_\_\_\_\_  
J. Norbert Federspiel

**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: July 28, 2011

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Governor's Committee on Crime, Delinquency and  
Correction, Executive Director: J Norbert Federspiel  
1204 Kanawha Boulevard East, Charleston, WV 25301  
(304) 558-8814, ext 53335

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 2, 2011 with WV SOS Office, Public comment started June 3, 2011

b. What other notice, including advertising, did you give of the hearing?  
Physical mailing to all West Virginia law enforcement agencies and electronic mailing to 1000+  
law enforcement related individuals and organizations, to include West Virginia Sheriff's  
Association, West Virginia Deputy Sheriff's Association, West Virginia Chiefs of Police  
Association, West Virginia Fraternal Order of Police (FOP) and West Virginia Troopers  
Association (WVTA)

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
July 6, 2011

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.  
Attached Yes, 1 comment                      No comments received \_\_\_\_\_

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

July 28, 2011

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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)

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Retired Captain Chuck Sadler, Law Enforcement Professional Standards  
Manager, West Virginia Division of Justice and Community Services (DJCS)

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1204 Kanawha Boulevard East, Charleston, WV 25301 (304) 558-8814, ext 53315

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(304) 539-4664 (cell) (304) 558-0391 (fax) Charles.A.Sadler@wv.gov

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

Same as Item "f"

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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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N/A - not required by statute

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b. Date of hearing or comment period:

N/A

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

N/A

d. Attach findings and determinations and reasons:

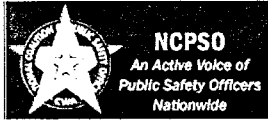
Attached N/A

RECEIVED

JUN 24 2011



Division of Justice &  
Community Services



**West Virginia Troopers Association, Inc.**

210 Chesapeake Avenue, Charleston, West Virginia 25311  
Telephone: 304-345-WVTA Fax: 304-345-9884

[wvtaoffice@aol.com](mailto:wvtaoffice@aol.com)

[www.wvtroopers.org](http://www.wvtroopers.org)

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

06-20-2011

The West Virginia Troopers Association board of directors has reviewed the proposed changes to Title 149, Series 2 and opposes the wording contained within subsection 13.6.

The proposal in subsection 13.6 reads as "As a requirement of certification, an officer must notify the subcommittee within (10) days of being charged with a crime (excluding minor traffic offenses). Failure to notify the subcommittee may result in certification being revoked or suspended."

The West Virginia Troopers Association board of directors feels that subsection 13.6 should read as "As a requirement of certification, an officer must notify the subcommittee within (10) days of being convicted of a misdemeanor crime or upon the arrest of a felony crime (excluding minor traffic offenses). Failure to notify the subcommittee may result in certification being revoked or suspended."

Thank you in advance for your consideration in this matter.

A handwritten signature in black ink, appearing to read "John W. Smith", is written over a horizontal line.

**John W. Smith-President**

LEGISLATIVE Rule Comment  
149-2

27 Jun 11

John:

I have received your written comment on behalf of the West Virginia Trooper's Association concerning the proposed rules changes for 149-2, specifically 149-2-13.6 addressing proposed requirement of an officer to self report being charged with a crime within 10 days of so being charged. I will make the other subcommittee members aware of this comment, and your suggested wording in lieu of it. Please note, that as of 10 Jun 11 with the WVTA becoming a member organization on the Law Enforcement Professional Standards (LEPS) Subcommittee that you, or your designee, will have direct input into the actions taken by the subcommittee as to the written comments rcvd in relation to the filing of these rules following the 30 day public comment period.

Chuck

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

(304) 558-8814 ext 53315 NEW EXTENSION NUMBER  
(304) 558-0391 (fax)

Charles.A.Sadler@wv.gov

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

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

28 Jul 11

Trooper John W Smith  
Past President  
West Virginia Troopers Association, Inc.  
210 Chesapeake Avenue  
Charleston, WV 25311

RE: Public Comment  
Proposed Legislative Rules 149-2-13.6

Dear Trooper Smith:

Thank-you for making the members of the Law Enforcement Professional Standards (LEPS) Subcommittee aware of your public comment concerning the proposed changes to CSR Legislative Rule Title 149, Series 2, Subsection 13.6. in your letter dated 20 Jun 11.

The members of the LEPS Subcommittee reviewed and discussed the recommendation of the Board of Directors of the West Virginia Troopers Association (WVTA) to change the requirement notice for officers from the proposed requirement of "being charged with a crime" to your recommendation to one of "being convicted of a misdemeanor crime or upon the arrest of a felony crime" at their regularly scheduled public meeting earlier this morning.

By a unanimous vote of the subcommittee members present at today's meeting a motion passed calling for the proposed language within Subsection 149-2-13.6 to remain as had been previously approved and proposed by subcommittee members. The motion reflected the position of the subcommittee members that the original proposed language requiring notice of being charged with any crime, misdemeanor or felony, excluding minor traffic offense, reflected the full intent of the Legislature when it made the changes to the applicable sections of West Virginia Code §30-29, et. al., during the 2011 Session addressing the issue of bad behavior of law enforcement officers and their certification as West Virginia law enforcement officers.

Please do not hesitate to contact me at (304) 558-8814, ext 53315 or [Charles.A.Sadler@wv.gov](mailto:Charles.A.Sadler@wv.gov) if you have any questions concerning this matter.

Sincerely:

  
Chuck Sadler  
Law Enforcement Training Coordinator



## Statement of Facts and Circumstances

### Law Enforcement Training Standards

#### Summary of Proposed Changes to Title 149, Series 2

The members of the Law Enforcement Training (LET) Subcommittee, a subcommittee of the Governor's Committee on Crime, Delinquency and Correction, in recognition of the need to make necessary changes to the current rule as a result of the statutory changes passed during the 2011 Session of the West Virginia Legislature addressing the certification of West Virginia law enforcement officers, to take effect June 10, 2011, met April 26-27, 2011 to address proposed changes to this rule. As a result of the discussion of the subcommittee members, a quorum being present and it being the unanimous decision of those present as to each proposed change, a series of changes were set forth to the current rule.

The changes proposed primarily address the process by which certified law enforcement officer's will maintain their certification in an active status while employed and the actions that they and law enforcement agencies must take when they stop employment at one agency and begin it at another one, regardless of the break in service. The status of their certification during such moves is addressed and the process they must take to have their certification activated to be employed again as an officer is defined. .

The changes also address the standards and process by which the Law Enforcement Training Subcommittee, renamed the Law Enforcement Professional Standards Subcommittee by statutory change to take effect June 10, 2011, can review the certification of a law enforcement officer in this State and clarifies the circumstances when an action may be taken against an officer's certification.

As well the changes address the standards and training that must be completed by certified West Virginia law enforcement officers who have an extended break in employment, five years or more, as an officer in this state, the certification of law enforcement instructors and criteria concerning the entry level training program.

Questions concerning the proposed changes should please be directed to Retired Captain Chuck Sadler, LET Coordinator, at (304) 558-8814, ext 53315 or [Charles.A.Sadler@wv.gov](mailto:Charles.A.Sadler@wv.gov)

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

**SERIES 2  
LAW ENFORCEMENT TRAINING STANDARDS**

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**STATEMENT OF FACTS AND CIRCUMSTANCES**

Questions should please be directed to:

Retired Captain Chuck Sadler  
(304) 558-8814, ext 53315  
[Charles.A.Sadler@wv.gov](mailto:Charles.A.Sadler@wv.gov)

The following amendments to 149CSR2 are being proposed:

**§Title 149, Series 2**

Added the words “AND CERTIFICATION” to the descriptive heading of what Series 2 addressed. With the changes passed by the 2011 Session of the West Virginia Legislature concerning West Virginia Code §30-29, et al, there is an enhanced emphasis on the certification standards for law enforcement officers within the state.

**§149-2-2 Definitions**

- **2.1.**

Removed word “Training” and replaced it with the words “Professional Standards” as to the name of the Law Enforcement Professional Standards Subcommittee. The words added bring the name of the subcommittee in line with the name of the subcommittee as a result of the changes to West Virginia Code §30-29-5 during the 2011 Session of the West Virginia Legislature.

- **2.8.**

Added a definition for the word inactive by adding the words “ “Inactive” as it relates to certification means the status of a previously certified officer upon separation from employment and prior to reactivation by the by the subcommittee thereby placing the individual in a non-law enforcement status as provided for in section 2.13.” The addition of this definition is necessary to define the status of a law enforcement officer’s certification during the period that he or she is not employed as a sworn law enforcement officer in this state. With the addition of this definition and the added definition of “investigator” the definition of “Law enforcement officer” now becomes 2.10.

- **2.9.**

Added a definition for the word investigator by adding the words “ “Investigator” that individual(s) employed by the Division of Justice and Community Services, empowered by the subcommittee to perform those duties necessary to ensure compliance with W. Va. Code §30-29-5 and this Rule.” The addition of this definition is necessary to describe the role and responsibility of the subcommittee’s investigator in assisting it to carry out its new responsibilities under West Virginia State Code §30-28-5. With the addition of this definition and the added definition of “inactive” the definition of “Law enforcement official” now becomes 2.11.

- **2.10.**

With the added definitions of inactive and investigator 2.8 becomes 2.10.

- **2.11.**

With the added definitions of inactive and investigator 2.9 becomes 2.11.

- **2.12**

With the added definitions of inactive and investigator 2.10 becomes 2.12.

- **2.13**

With the added definitions of inactive and investigator 2.11 becomes 2.13.

Added the words “, excepting as provided for in state code” Recommended to allow individuals authorized under state code, i.e. process servers, other investigators, etc., who do not have sworn arrest powers, but are empowered to carry out duties and functions for which a reasonable person to perceive him or her to be a law enforcement officer when in fact they are not.

- **2.14**

Added a definition for the word reactivation by adding the words ““Reactivation” as it relates to certification means having an officer’s status reinstated from inactive status.” The addition of this definition is necessary to define the status of a law enforcement officer’s certification as he or she moves from an inactive status upon once again being employed as an officer in this state. With the addition of this definition the definition of “Scholastic failure” now becomes 2.15.

- **2.15**

With the added definitions of inactive, investigator and reactivation 2.12 becomes 2.15.

- **2.16**

With the added definitions of inactive, investigator and reactivation 2.13 becomes 2.16.

Removed the word “training” in two locations and added the words “professional standards” Recommended due to the change in the name of the Law Enforcement Training Subcommittee to the Law Enforcement Professional Standards Subcommittee as set forth as part of the changes approved by the members of the West Virginia Legislature during their 2011 Session as relates to West Virginia Code §30-29, et al.

- **2.17**

With the added definitions of inactive, investigator and reactivation 2.14 becomes 2.17.

### **§149-2-3 Academy Facility Standards**

- **3.3.a.**

Removed the words “law enforcement training subcommittee” and replaced it with the word “Subcommittee.” Change made to reflect accepted shortened reference to the Law Enforcement Professional Standards Subcommittee.

- **3.8**

Added a new Subsection by adding the words “Common Study Area – Each facility shall include one room of sufficient size to accommodate study time.” Added to reflect requirement that any approved academy facility has to have an

area set aside for study by the attending officers. What a common study are is defined by the addition.

- **3.9**

With the addition of Common Study Area, 3.8 becomes 3.9

- **3.10**

With the addition of Common Study Area, 3.9 becomes 3.10.

- **3.11**

With the addition of Common Study Area, 3.10 becomes 3.11

- **3.11.a.**

With the addition of Common Study Area, 3.10.a becomes 3.11.a

- **3.11.b**

With the addition of Common Study Area, 3.10b. becomes 3.11.b.

- **3.11.c**

With the addition of Common Study Area, 3.10.c. becomes 3.11.c.

- **3.11.d.**

With the addition of Common Study Area, 3.10.d. becomes 3.11.d.

- **3.11.e**

With the addition of Common Study Area, 3.10.e. becomes 3.11.e.

- **3.11.f**

With the addition of Common Study Area, 3.10.f. becomes 3.11.f.

- **3.11.g**

With the addition of Common Study Area, 3.10.g. becomes 3.11.g.

- **3.11.h.**

With the addition of Common Study Area, 3.10.h. becomes 3.11.h.

- **3.11.i**

With the addition of Common Study Area, 3.10.i. becomes 3.11.i.

- **3.12**

With the addition of Common Study Area, 3.11 becomes 3.12.

- **3.13**

With the addition of Common Study Area, 3.12 becomes 3.13.

#### **§149-2-4. Academy Staffing**

- **4.1.d.**

Removed the words “sponsor’s” and “relating to it.” They were replaced them with the words “of the agency or department conducting the academy.” Recommended to clarify that the Academy Director of Training’s accountability falls under the policies and regulations of the agency or department operating the academy.

#### **§149-2-5. Instructor Certification**

- **5.1.a.4.**

Added the words “within 5 years” Recommended to ensure that the training which the individual is using as the basis to show his or her training to become a law enforcement instructor in the desired area/s of expertise is current.

- **5.3.b.**

Removed the words “Committee, at its discretion and upon the recommendation of the Subcommittee” and replaced them with the word “Subcommittee.” Recommended to accurately reflect the authority and established practice of the Subcommittee members to waive the requirements for an individual to be approved as a instructor.

- **5.5**

Removed the words “Committee” and “, at its discretion and upon the recommendation of the Subcommittee” and replaced them with the word “Subcommittee.” Recommended to accurately reflect the authority and established practice of the Subcommittee members to revoke that certification of

an instructor and that such action is taken by the Subcommittee on behalf of the Governor's Committee on Crime, Delinquency and Correction.

#### **§149-2-7. Training Academy Policies**

- **6.4**

Removed the word "or" and added a " , " after the word injury and added the words " , hardship or circumstances beyond his/her control" and "If denied reentry by the Director, the agency head shall have the right to appeal this denial to the Subcommittee." Recommended to bring the Rule in accord with changes to West Virginia Code §30-29-5 (f) as amended by the 2011 Session of the West Virginia Legislature and to set forth the process by which an individual denied reentry may appeal that denial.

- **6.5.b.**

Removed the word "sponsoring" and replaced it with "conducting"  
Recommended to more accurately reflect the role of the agency running, conducting, the training program.

#### **§149-2-8. Academy Entry Standards**

- **8.2.a.**

Added the words " , after receiving written notification from their employer,"  
Recommended to clarify the responsibility of the employer as to providing notice to newly hired, uncertified, law enforcement officers of the requirement that an application must be filed no later than ninety (90) days from their employment as a law enforcement officer.

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

- **13.2.**

Removed the misspelled word "compelting" and replaced it with "completing".  
Recommended to remove the spelling error and to ensure understanding of the intent of the Rule.

- **13.6**

Removed the words "Law enforcement agencies shall provide within ten (10) working days written notice of the employment or termination of employment of officers in their department, giving the officer's full name and social security number. Notification of semiannual firearms qualification results shall include the full name and social security of officers." Replaced them "As a requirement of

certification a law enforcement officer must notify the Subcommittee within ten (10) days of being charged with a crime (excluding minor traffic offenses). Failure to notify the Subcommittee may result in his or her certification being revoked or suspended.” Recommended, as to the deleted words, to address changes being set forth in new section of this Rule, §149-2-17.2, as to the requirement of an agency’s responsibility to inform the Subcommittee of his separation and the reason therefore. Recommended, as to the added words, to establish requirement for a law enforcement officer to make the Subcommittee aware of criminal actions on his or her part need to be tracked to determine if a review is required by the Subcommittee concerning the law enforcement certification of that law enforcement officer.

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

- **14.1.c.**

Removed the words “Law Enforcement Training Coordinator” replacing them with the word “Subcommittee.” Recommended as notice of actions relating to law enforcement officer training and certification are directed to the Subcommittee, a representative of which then takes applicable action concerning it.

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

- **15.3.**

Added the words “, but less than sixty (60) months” Recommended, in conjunction with the newly added wording of 15.4 of this Rule, to allow the Subcommittee the authority to require law enforcement officers who have not worked as a law enforcement officer in West Virginia for more than sixty (60) months (five years) to have to complete additional training, up to having to complete the full entry level training program once again, based on the time since they completed their regular training and since they have last worked in this state. It is becoming more common for individuals to return to work as a law enforcement officer in West Virginia after an extended period since they were trained and last worked.

- **15.4.**

Added a new subsection with the new wording “Law enforcement officers, or law enforcement officials, who desire to re-certify as a law enforcement officer, who have been separated from a law enforcement agency in this state for more than sixty (60) months must first receive approval of the Subcommittee to be re-certified as a law enforcement officer under process set forth in subsection 15.3 preceding. The Subcommittee, on review of the entry level training and other training completed by such a law enforcement officer may prescribe additional

training to be completed in addition to the classes set forth in subsection 15.3 preceding, such training to comprise, when determined necessary by the Subcommittee that the law enforcement officer attend the full entry level training program in effect at the time the review is completed.” Recommended, as reflected in the note and circumstances reflected in preceding section for 15.3 of this Rule, to allow the Subcommittee to ensure that law enforcement officers returning to work as such in this state after an extended absence from so working is current and fully trained on the skills required to function as a law enforcement officer in this state.

- **15.5.**

With the wording added for the new subsection under 15.4, what was previously approved as 15.4 becomes 15.5.

- **15.6.**

What had previously been the approved as the wording under 15.5 becomes 15.6.

- **15.7.**

What had previously been the approved as the wording under 15.6 becomes 15.7.

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

- **Title, Heading**

Removed the word “Revocation” and replaced it with the word “Decertification” Recommended in that the action of decertifying the certification of a law enforcement officer in this state is action actually taken to fully remove the ability for an individual to work as a law enforcement officer in this state.

- **16.1**

Removed the word “revoke” and replaced it with the word “decertify” Recommended in that the action of decertifying the certification of a law enforcement officer in this state is action actually taken to fully remove the ability for an individual to work as a law enforcement officer in this state.

Removed the words “conduct or a pattern of conduct unbecoming to an officer or activities that tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement. Such conduct, pattern of conduct, or” Recommended to allow the placement of the primary wording in these removed words to be placed as one of the activities that may be considered as grounds to take an action

concerning the certification of a law enforcement officer in this state. The words are being recommended to become a new subsection 16.1.i. of this Rule. The change better defines the listing of the reasons that can be considered in taking a certification action.

Added the word “that” With the removal of the wording in the preceding fact and circumstances note the addition of this word allows for the proper flow of the opening statement under section 16.1 as to actions concerning a law enforcement officer’s certification.

- **16.1.i.**

Added this new subdivision of this Rule by adding the words “Any conduct or a pattern of conduct unbecoming to a law enforcement officer or law enforcement official or activities that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement.” Recommended to allow for the wording removed from Section 16.1 of the existing Rule to be considered as one of the reasons under which the Subcommittee could take an action concerning the certification of a law enforcement officer or law enforcement official in this state.

- **16.4**

Remove all of the wording under the current Section “The Subcommittee may not suspend, revoke, or deny law enforcement certification when an officer is terminated for infraction of his or her agency’s policies, general orders, or similar guidelines of operation that do not amount to any of the causes outlined in this section.” Recommended to allow the Subcommittee to have the ability to exercise the authority to take an action concerning the certification of a law enforcement officer or law enforcement official in this state under circumstances determined to warrant such an action being taken consistent with the intent of the Legislature in the passing of the changes to West Virginia Code §30-29-5 during their 2011 session.

With the removal of all of the wording of this Section 16.5 becomes 16.4.

- **16.5**

With the removal of the wording under Section 16.4, 16.6 becomes 16.5.

### **§149-2-17. Certified law enforcement officers separated from employment.**

- **Title, Heading**

Creates this new Section of the Rule by adding the words “§149-2-17. Certified law enforcement officers separated from employment “ as reflected within these Facts and Circumstances. This newly added section addressing the status of the

certification of law enforcement officers or law enforcement officials separated: resigned, retired, dismissed, etc. is required to allow the Subcommittee to carry out the intent and desires of the Legislature for the changes made to West Virginia State Code §30-29-5 during their 2011 session as relating to officer conduct and behavior.

- **17.1.**

Creates this new Subsection of the Rule by adding the words “The certification of a law enforcement officer who is separated from his or her employment with a West Virginia law enforcement agency, shall immediately become inactive and remain inactive until the subcommittee authorizes reactivation of the officer’s certification pursuant to the procedure set forth in this section.” Recommended to allow the Subcommittee to review the circumstances of why a law enforcement officer or law enforcement official separated from an agency to determine if there are any grounds for action to be taken concerning the certification of that individual.

- **17.1.a.**

Creates this new Subdivision of the Rule by adding the words “For the purposes of this Section, “separated” means an absence from duty from any West Virginia law enforcement agency as a result of retirement, resignation, or termination. » (end quote) Recommended as the definition of separation is necessary to clarify when the applicable requirements of this section must be complied with.

- **17.1.b.**

Creates this new Subdivision of the Rule by adding the words “A person whose law enforcement certification has become inactive and desires reactivation, shall apply to the subcommittee by proper application, to have his or her certification reactivated.” Recommended to state the requirement as to what a person must do to have his or her certification as a law enforcement officer in this state reactivated following his or her separation from a West Virginia law enforcement agency.

- **17.2.**

Creates this new Subsection of the Rule by adding the words “Whenever a law enforcement officer separates from a West Virginia law enforcement agency, the chief law-enforcement officer of that law enforcement agency shall notify the subcommittee, by change of status form, of the separation within ten days of the date of separation. The notification of the separation from employment shall include the following reason or reasons the officer is no longer employed. The chief law enforcement officer is required to specify precisely the reason or reasons for items 17.2.c thru 17.2.e in the comments section of the form.”

Recommended to set forth the requirement for the chief law enforcement officer of a West Virginia law agency to make notice to the Subcommittee, to include the reason for, of the separation of a law enforcement officer from that agency. Such required notice will allow the Subcommittee to review the circumstances for the separation to determine if the reason/s warrant a review concerning the law enforcement certification of the law enforcement officer.

- **17.2.a.**

Creates this new Subdivision of the Rule by adding the word “Retirement” Recommended as this is one of the reasons for separation of a law enforcement officer from a West Virginia law enforcement agency that the Subcommittee needs to be made aware of.

- **17.2.b.**

Creates this new Subdivision of the Rule by adding the word “Resignation” Recommended as this is one of the reasons for separation of a law enforcement officer from a West Virginia law enforcement agency that the Subcommittee needs to be made aware of.

- **17.2.c.**

Creates this new Subdivision of the Rule by adding the words “Retirement or resignation in lieu of termination” Recommended as this is one of the reasons for separation of a law enforcement officer from a West Virginia law enforcement agency that the Subcommittee needs to be made aware of.

- **17.2.d.**

Creates this new Subdivision of the Rule by adding the words “Retirement or resignation while under investigation or allegations of misconduct.” Recommended as this is one of the reasons for separation of a law enforcement officer from a West Virginia law enforcement agency that the Subcommittee needs to be made aware of.

- **17.2.e.**

Creates this new Subdivision of the Rule by adding the word “Termination” Recommended as this is one of the reasons for separation of a law enforcement officer from a West Virginia law enforcement agency that the Subcommittee needs to be made aware of.

- **17.3.**

Creates this new Subsection of the Rule by adding the words “The Subcommittee

shall form a three person review board consisting of chair of the subcommittee and two additional members of the full Subcommittee. Upon receipt of an application for reactivation, the review board shall review the notification of separation received from the law enforcement agency with which the applicant was most recently employed, and unless the notification indicates that the separation from employment was based on circumstances pertaining to subsections 17.2c, 17.2d or 17.2.e of this Rule that would result in the applicant being ineligible for certification, the Subcommittee shall grant the applicant a temporary reactivation of his or her certification until a final determination is made pursuant to subsection 17.5 of this Rule. The review board will notify the subcommittee of their actions and decisions.” Recommended to describe the process by which the Subcommittee shall grant a temporary reactivation of the certification of a separated law enforcement officer whose separation was the result of a retirement or resignation not a result of an action by the agency or when the individual was under investigation. Such a temporary reactivation will minimize the time period that such a law enforcement officer could not be employed by a West Virginia law enforcement agency.

- **17.3.a.**

Creates this new Subdivision of the Rule by adding the words “Upon receipt of an application for reactivation, the review board of the subcommittee may request that the law-enforcement agency from which the applicant was most recently separated, provide a copy of the applicant’s personnel file or other information relevant to the applicant’s separation of employment.” Recommended to define the process by which the Subcommittee may secure records that it needs to make a determination if a review of the law enforcement certification of the separated law enforcement officer is required. The ability to secure such information is consistent with the intent of the members of the 2011 Session of the West Virginia legislature in passing the changes made to West Virginia Code §30-29-5.

- **17.3.b.**

Creates this new Subdivision of the Rule by adding the words “For the purpose of making a determination on an application for reactivation, the subcommittee is authorized to examine witnesses and to subpoena persons, books, records or documents from law enforcement agencies in this state.” Recommended to define the process by which the Subcommittee may secure or examine records or speak with individuals to allow it to make a determination if a review of the law enforcement certification of the separated law enforcement officer is required. The ability to secure such information is consistent with the intent of the members of the 2011 Session of the West Virginia legislature in passing the changes made to West Virginia Code §30-29-5.

- **17.3.b.1.**

Creates this new Paragraph of the Rule by adding the words “The review board of the subcommittee shall request through the chair of the subcommittee that subpoenas be issued.” Recommended to set the procedure by which a subpoena will be requested to issued to secure necessary records.

- **17.3.b.2.**

Creates this new Paragraph of the Rule by adding the words “The subcommittee may empower an investigator employed by the Division of Justice and Community Services to act on their behalf and report findings of fact to the review board.” Recommended to allow for the use of the services of investigator hired by DJCS in following up on matters that need to be investigated and prepared for review as relates to the status of the law enforcement certification of a law enforcement officer in this state who has separated from a West Virginia law enforcement agency under a condition set forth for which a review is applicable.

- **17.4.**

Creates this new Section of the Rule by adding the words “Upon receipt of a request by the subcommittee via certified mail, the chief law-enforcement official of the law enforcement agency with which the applicant was most recently employed, or his or her designee, shall, within eight calendar days, provide the subcommittee with a copy of the applicant’s personnel file or other information relevant to the applicant’s separation of employment.” Recommended to set forth the procedure and timeframe by which a chief law enforcement official of a West Virginia law enforcement agency shall respond to a request from the Subcommittee.

- **17.4.a..**

Creates this new Subdivision of the Rule by adding the words “An applicant shall be entitled to a copy of all documents or other materials submitted to the subcommittee related to the application.” Recommended to clarify which documents or materials which a law enforcement officer seeking reactivation is entitled to which have been submitted to the Subcommittee.

- **17.5**

Creates this new Subsection of the Rule by adding the words “Within 30 days of the receipt of the applicant’s personnel file or any other information provided by the law enforcement agency, the Subcommittee shall review the information and issue a final decision. Provided that; the 30 days begin upon receipt all applicable documents, records, etc. requested or subpoenaed.” Recommended to set forth the

time frame following the receipt of requested records by which the Subcommittee must review and issue a final decision on an application to reactivate an individual's law enforcement certification.

- **17.6**

Creates this new Subsection of the Rule by adding the words “An application for reactivation shall be approved unless the Subcommittee affirmatively demonstrates, in writing, that the applicant has engaged in conduct that may result in his or her decertification, as provided in section 16.1 of this rule. Where information available to the subcommittee indicates that the applicant has engaged in conduct that is in violation of this rule or other laws or rules, the application for reactivation may not be granted.” Recommended to set forth the requirement that absent information supporting that a law enforcement officer seeking reactivation of his or her certification as a law enforcement officer in this state participated in conduct as set forth under Subsection 16.1 of this Rule that his or her application for reactivation shall be granted.

- **17.7**

Creates this new Subsection of the Rule by adding the words “An applicant whose certification is not reactivated pursuant to a final decision of the subcommittee, may appeal the final decision of the subcommittee pursuant to CSR §149-2-1 and Section 29A, Article 4, Chapter 29 of the W.Va. Code.” Recommended to set forth the appeal process that an individual denied his or her application for reactivation is to follow.

- **17.8.**

Creates this new Subsection of the Rule by adding the words “Nothing in this section shall be construed to require the rehiring of a person by a law enforcement agency from which he or she was separated, even though the subcommittee authorizes his or her certification to be reactivated.” Recommended to clarify that the decision to hire an individual as a law enforcement officer in this state, whose application to be reactivated is approved by the Subcommittee, lies with the employing agency.

- **17.9.**

Creates this new Subsection of the Rule by adding the words “A chief law enforcement official, or appointing officer, or his or her designee, is immune from civil liability for providing to the subcommittee any information required or requested by this section.” Recommended to clarify that individuals responding to properly submitted requests from the Subcommittee are immune from civil action for the provision of such information.

- **17.10.**

Creates this new Subsection of the Rule by adding the words “All information and materials collected as a result of this section shall be retained in a computer database.” Recommended to set forth the desire and intent of the members of the 2011 Session of the West Virginia Legislature that a computer data base be set up and operated to track the actions relevant to the law enforcement certification of law enforcement officers in this state.

- **17.10.a.**

Creates this new Subdivision of the Rule by adding the words “The database shall be controlled by the Division of Justice and Community Services and operated under rules and policies developed by the Division.” Recommended to clarify which entity will be responsible for the operation and control of the computer data base to be operated and under which rules and policies it will be maintained.

- **17.10.b.**

Creates this new Subdivision of the Rule by adding the words “Information maintained in the database may be released to a law enforcement official based upon policies established by the Division and the Subcommittee.” Recommended to clarify the process by which information in the computer data base may be requested and released to authorized individuals.

- **§149-2-18 Certification Retention**

With the addition of new Section 17 this section becomes Section 18.

- **18.1**

With the numbering change for this Section this Subsection is changed from 17.1 to 18.1

Added the words “, as set forth in Subsections §149-2-17.1 to 17.3 of this Rule,” Recommended to clarify that only law enforcement officers who have separated from employment from a West Virginia law enforcement agency under the standards set forth in these Subsections and otherwise meet the requirements to participate in the Certification Retention program may do so.

- **18.1.a.**

With the numbering change for this Section this Subdivision is changed from 17.1.a. to 18.1.a.

Added the words “reactivation and approval for certification” Recommended to

clarify the application process that a law enforcement officer seeking to participate in the Certification Retention program must follow.

- **18.1.b.**

With the numbering change for this Section this Subdivision is changed from 17.1.b. to 18.1.b.

- **18.1.c.**

With the numbering change for this Section this Subdivision is changed from 17.1.c. to 18.1.c.

- **18.2**

With the numbering change for this Section this Subsection is changed from 17.2 to 18.2

Removed the word “ Law Enforcement Training” Recommended to allow reference in this section to the Law Enforcement Professional Standards Subcommittee by the term “Subcommittee” which has been previously recognized in the Rule to stand for the Law Enforcement Professional Standards Subcommittee.

FILED

TITLE 149  
LEGISLATIVE RULE  
GOVERNOR'S COMMITTEE ON CRIME, DELINQUENCY AND CORRECTION 2011 APR 28 PM 3:19

SERIES 2  
LAW ENFORCEMENT TRAINING AND CERTIFICATION STANDARDS  
WEST VIRGINIA  
UNIVERSITY 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 an 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. -- April 15, 2011.

1.4. Effective Date. -- July 10, 2011.

§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, on recommendation by the Law Enforcement ~~Training~~Professional Standards Subcommittee, to conduct law enforcement training.

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

2.3. "Conviction" means an adjudication of guilt or a plea in a criminal case in this state or any other municipal, federal, tribal, military or state jurisdiction. "Conviction," when used herein applies to convictions entered both before and after the effective date of this section.

2.4. "County" means any one of the fifty-five major political subdivisions of the state.

2.5. "Exempt rank" means any noncommissioned or commissioned rank of sergeant or above as regarding the requirements set forth in this rule.

2.6. "Good standing" means any law enforcement officer that has not been denied certification or had his or her certification revoked or suspended by the Governor's Committee on Crime Delinquency and Correction pursuant to the provisions of this Rule; except that for the purposes of re-certification pursuant to section 149-2-15 of this Rule only, an officer is considered to be in good standing even if his or her certification was not renewed for failing to attend mandated in-service training because of his or her position as a law enforcement official.

2.7. "Governor's Committee on Crime, Delinquency and Correction" or "Governor's Committee" or "Committee" means the Governor's Committee on Crime, Delinquency and Correction established as a state planning agency pursuant to W. Va. Code §15-9-1 with duties as set forth in W. Va. Code §30-29-3 and this Rule.

2.8. “Inactive” as it relates to certification means the status of a previously certified officer upon separation from employment and prior to reactivation by the subcommittee thereby placing the individual in a non-law enforcement status as provided for in section 2.13.

2.9. “Investigator” that individual(s) employed by the Division of Justice and Community Services, empowered by the subcommittee to perform duties necessary to ensure compliance with W.Va. Code 30-29 -5 and this Rule.

~~2.8.~~ 2.10 “Law enforcement officer” means any duly authorized member of a law enforcement agency who is authorized to maintain public peace and order, prevent and detect crime, make arrests and enforce the laws of the state or any county or municipality of the state, other than parking ordinances, including persons employed as campus police officers at state institutions of higher education and those persons employed as rangers by the Hatfield-McCoy regional recreation authority. The term “law-enforcement officer” does not apply to the chief executive of any West Virginia law-enforcement agency or any watchman or special conservation officer.

~~2.9.~~ 2.11 “Law enforcement official” means the duly appointed chief administrator of a designated law enforcement agency or a duly authorized designee.

~~2.10.~~ 2.12 “Municipality” means any incorporated town, village or city whose boundaries lie within the geographic boundaries of the state.

~~2.11.~~ 2.13 “Non-law enforcement status” means an officer may not wear the uniform of that agency, may not be armed, and will not perform the duties of a law enforcement officer as defined in W. Va. Code §30-29-1 and section 149-2-8.3. of this Rule. An officer in non-law enforcement status shall not present himself or herself in any manner that a reasonable person would perceive him or her to be a law enforcement officer, excepting as provided for in state code. —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 an entry-level training program.

2.14. “Reactivation” as it relates to certification means having an officer’s status reinstated from inactive status.

~~2.12.~~ 2.15 “Scholastic failure” means the failure of required graded academic examinations or evaluated skill courses.

~~2.13.~~ 2.16 “Subcommittee” or “law enforcement ~~training~~ professional standards subcommittee” means the ~~training~~ subcommittee of the Governor’s Committee on Crime, Delinquency and Correction established pursuant to W. Va. Code §30-29-2 with duties as set forth in W. Va. Code §30-29-3 and this Rule.

~~2.14.~~ 2.17 “West Virginia law enforcement agency” means any duly authorized state, county or municipal organization employing one or more persons whose responsibility is the enforcement of law of the state or any county or municipality of this state.

### **§149-2-3. Academy Facility Standards.**

3.1. Location. -- Basic training may be provided at a single central location or at a central location and one (1) or more regional locations. The standards outlined in this Rule apply to any facility where basic training will be conducted and shall insure that the training shall be carried out in an adequate and proper setting.

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

3.3. Classrooms.

3.3.a. The classroom shall be large enough to comfortably accommodate the largest anticipated attendance. Minimum registration for any entry level training class funded by the ~~law enforcement training subcommittee~~ Subcommittee is twenty-five (25) officers.

3.3.b. Artificial or day lighting shall provide good visibility at all times and permit the utilization of visual training materials.

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

3.3.d. Acoustics shall be adequate to enable the speaker to be heard from any place in the classroom being used. A public address system shall be provided if needed.

3.4. Classroom Amenities.

3.4.a. All desks shall have smooth tops and shall be of sufficient size to accommodate adult trainees.

3.4.b. Display surfaces shall be positioned to permit unobstructed viewing from the rearmost area of the classroom and shall be of an appropriate size to allow material displayed and/or writing to be viewed by all participants.

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

3.4.d. All appropriate audio and video equipment and training aids shall be available and operable at the beginning of each class.

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

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

3.6.a. The range shall be appropriate for the weapons training or certification being conducted and will be located within reasonable driving distance from the academy site.

3.6.b. It shall permit sole occupancy by law enforcement agencies when in use by them for firearms training or qualification.

3.6.c. Curriculum firearms training time does not include travel time if the range is more than 15 minutes from the academy site.

3.7. Physical Training Room. -- Each facility shall include one room of sufficient size to accommodate trainees during physical fitness and defensive training.

3.8. Common Study Area – Each facility shall include one room of sufficient size to accommodate

| study time.

| ~~3-8.~~ 3.9. Restrooms. -- Separate restroom facilities of sufficient size and number to accommodate the needs of both sexes shall be provided in close proximity to the classrooms.

| ~~3-9.~~ 3.10 Parking. -- Adequate and free parking space shall be provided. The parking area shall be within reasonable walking distance of all classrooms.

| ~~3-10.~~ 3.11 Supplies. -- Each trainee shall be furnished with the following expendable supplies as needed:

| ~~3-10.a.~~ 3.11.a. Ammunition for firearms training;

| ~~3-10.b.~~ 3.11.b. Notebooks (three ring binders) in a sufficient number to accommodate all notes and handout materials;

| ~~3-10.c.~~ 3.11.c. Notebook indexes in a sufficient number to permit indexing of each individual notebook;

| ~~3-10.d.~~ 3.11.d. Legal pads in a sufficient number to permit taking of detailed notes throughout duration of training program;

| ~~3-10.e.~~ 3.11.e. A current copy of all relevant West Virginia Code sections;

| ~~3-10.f.~~ 3.11.f. Writing instruments in a sufficient number to permit taking of detailed notes throughout the duration of the training program;

| ~~3-10.g.~~ 3.11.g. A copy of the course schedule;

| ~~3-10.h.~~ 3.11.h. A copy of the rules governing operation of the training facility; and,

| ~~3-10.i.~~ 3.11.i. Handout materials required by the instructors.

| ~~3-11.~~ 3.12. Food Services. -- Law enforcement training academies shall provide food service:

| ~~3-11.a.~~ 3.12.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.~~ 3.12.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.~~ 3.13. 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.**

4.1.a. Appointment. -- The appointment of a Director of Training (Director) 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 an academy other than the West Virginia State Police Academy shall be approved by the Committee, following recommendation by the Subcommittee, based on a composite assessment of the candidates' education, training, administrative and law enforcement experience.

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

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

4.1.c.2. Selecting qualified instructors;

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

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

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

4.1.c.6. Requiring all applicants to provide a medical examination that shows they meet the requirements for admission to a basic entry-level training program and successfully complete the physical fitness test battery for entry into an entry-level training program;

4.1.c.7. Exercising administrative and supervisory control over personnel;

4.1.c.8. Dismissing trainees;

4.1.c.9. Excusing absences of trainees; and,

4.1.c.10. Delegating authority.

4.1.d. Accountability. -- The Director 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 of the agency or department conducting the academy. The Director has the responsibility of keeping the Subcommittee informed regarding the training program. Normally this will be accomplished through progress reports. However, the Director shall 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.

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

#### **§149-2-5. Instructor Certification.**

5.1. Law Enforcement Instructor Certification.

5.1.a. Standards. -- All law enforcement instructors' certifications shall be valid for four (4) years provided the following standards are met:

5.1.a.1. Current certification as a law enforcement officer in the State of West Virginia if applicable;

5.1.a.2. A high school diploma or its equivalent;

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

5.1.a.4. A minimum of sixteen (16) hours of verified training in each academic subject area within 5 years in which certification is desired; provided that certain training may require additional hours as required by the Subcommittee.

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

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

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

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

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

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

## 5.2. Firearms Instructor Certification.

5.2.a. Standards. -- Firearms instructors, in addition to qualifications required for law enforcement instructors set forth in Subsection 149-2-5.1 of this rule, shall:

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

5.2.a.2. Complete a handgun firearms instructor school, of not less than forty (40) hours, approved by the Subcommittee.

5.2.b. Maintenance of Certification. -- In order to keep their certifications active, firearms instructors shall:

5.2.b.1. Instruct at least a two (2) hour block of firearms instruction in a department or committee recognized firearms certification program, either in a firearms associated classroom presentation or actually on the firearms range, every twenty-four (24) months from the date of their original instructor certifications; or,

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

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

### 5.3. Waiver of Standards for Certain Individuals.

5.3.a. Licensed members of the West Virginia State Bar, the medical profession and other similar professions; high school, community or junior college, college and university faculty members; certified emergency medical care or advanced first aid instructors; and employees of United States governmental agencies; or of state or local agencies which have police regulatory power and whose training assignments are of such short duration as to make certification impractical, may apply to the Subcommittee for an exemption from the certification process.

5.3.b. ~~The Subcommittee Committee, at its discretion and upon the recommendation of the 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 in each academic area of expertise or firearm related area of expertise for instructors who have not had a revocation related action taken against their law enforcement instructor certification as set forth in Subsection §149-2-5.5 of this Rule or their certification as a law enforcement officer as set forth in Section §149-2-16 of this Rule has not been suspended or revoked.

5.5. Revocation. -- ~~The Subcommittee Committee may, at its discretion and upon the recommendation of the 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 the director of a training program approved by the Subcommittee, or by the instructor's employer for failure to provide adequate instruction; or,

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

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

**§149-2-6. Training Academy Policies.**

6.1. Attendance. -- An officer shall attend all classes and class functions, including all items listed in the course curriculum, unless excused by the Director. Absences may be excused for illness or injury of the officer or for other causes approved by the Director. An unexcused absence constitutes grounds for dismissal. Work missed while absent shall be made up.

6.2. Audits. -- Law enforcement officers may audit classes if space is available.

6.3. Grades. -- The minimum passing grade on an examination is seventy-five percent (75%) and an officer shall maintain an academic average of seventy-five percent (75%) for graduation and certification. Students failing to obtain 75% on an examination may be allowed to retake the examination within five (5) days. In the event the trainee passes the make-up examination, he or she shall be retained in the training program with the understanding that his or her academic standing shall reflect the score obtained on the original examination. The scores of the original examination and the make-up examination will be recorded on the individual's class record. Provided that students will be allowed to retake a maximum of two (2) separate failed examinations during the course of the program. Any student failing to pass after the second examination shall be dismissed as a scholastic failure. Students will be given three (3) attempts to successfully complete all skills examinations. Any student failing to pass any skill examination after three attempts shall be dismissed as a scholastic failure.

6.4. Reentry. -- Reentry to the basic training for trainees who have withdrawn from a program because of an injury, ~~or~~ extended illness, hardship or circumstances beyond his/her control is at the discretion of the Director. If denied reentry by the Director, the agency head shall have the right to appeal this denial to the Subcommittee.

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

6.5.a. Written notice via U. S. Postal Service will be provided by the Director 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 Committee.

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~~ conducting the training. If necessary, a subsequent appeal shall be in accordance with the Administrative Procedures Act. W. Va. Code §29A-3-1 et. seq.

6.6. Salary. -- The trainee's salary for a forty-hour workweek while undergoing training and his or her travel costs to and from the training site are the responsibility of the employing agency. Cost of training uniforms, fatigues and other personal equipment required for training shall be paid for by the employing agency.

6.7. Costs.

6.7.a. Cost for food, lodging and training materials for trainees attending a live-in entry-level training academy may be paid by the Committee.

6.7.b. The Subcommittee, upon submission of a grant application, will review other costs relating to the operation and presentation of entry-level or in-service training programs.

**§149-2-7. Academy Training Curriculum.**

7.1. The objective of the curriculum is to provide all law enforcement officers with a minimum of eight hundred (800) hours of basic training for certification.

7.2. It is the responsibility of the employing agency to provide training in those areas not included in the core curriculum. Local ordinances and department policies and procedures 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 Committee upon recommendation of the Subcommittee. Recommendations for change shall be made in writing to the Subcommittee.

#### **§149-2-8. Academy Entry Standards.**

8.1. Entry standards include, but are not limited to, an applicant's demonstration of their ability to perform, or be trained to perform, all of the essential tasks and functions contained in the job description and the ability to meet the required medical and physical ability standards as set forth in this Rule.

8.1.a. This Rule will insure that persons appointed to positions as police officers, in agencies subject to this rule, are medically fit to undergo the training requirements for the position, and to perform their essential tasks, at a minimal risk to themselves, their fellow officers, and the public.

8.1.b. All requests for reasonable accommodation may be reviewed by a panel of at least four (4) people appointed by the Chairman of the 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, by the Committee, law enforcement officers, after receiving written notification from their employer, shall apply for admission to an 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 or other paperwork approved by the Subcommittee on recommendation of the Director.

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

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. The request is to be filed with the Subcommittee.

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

8.3.a. Arrest and Detain Persons. -- In arrest and detention, an 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 making proper returns;
- 8.3.a.11. Check for warrants on persons through NCIC.

8.3.b. Protect Crime Scene and Collect Evidence and Information. -- In protecting the crime scene and collecting evidence and information, an 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 Driving Under the Influence (DUI)/Traffic Laws. – In enforcement of DUI/Traffic laws, an officer may:

8.3.c.1. Observe persons to recognize signs of drug or alcohol intoxication;

8.3.c.2. Make custodial traffic arrests (e.g., DUI);

8.3.c.3. Administer roadside sobriety tests;

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

8.3.c.5. Arrange for obtaining a blood or urine sample for blood alcohol content (BAC);

8.3.c.6. Arrest DUI suspects;

8.3.c.7. Determine probable cause to execute a DUI stop;

8.3.c.8. Operate a secondary chemical test instrument to test blood alcohol content;

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

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

8.3.c.11. Record statements of witnesses to traffic crashes;

8.3.c.12. Assist trapped persons;

8.3.c.13. Direct a moving vehicle out of a line of traffic to execute a vehicle stop; and

8.3.c.14. Stop vehicles to arrest, cite or warn occupants.

8.3.d. Operate Patrol Vehicle. -- In operating a patrol vehicle, an 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 officer may:

8.3.e.1. Obtain warrants and make proper returns;

- 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 officer may:
- 8.3.f.1. Confront, in a riot formation, groups of agitated people;
  - 8.3.f.2. Control hostile groups (e.g., demonstrators, rioters);
  - 8.3.f.3. Use holds or devices to control or take a suspect down;
  - 8.3.f.4. Tackle a fleeing suspect;
  - 8.3.f.5. Physically subdue an attacking person;
  - 8.3.f.6. Use weaponless defense tactics;
  - 8.3.f.7. Subdue a person resisting arrest;
  - 8.3.f.8. Use body pressure points to control a person;
  - 8.3.f.9. Disarm a violent armed suspect;
  - 8.3.f.10. Remove a person out of vehicle who is resisting arrest;
  - 8.3.f.11. Strike a person with side-handled baton;
  - 8.3.f.12. Strike a person with straight baton;
  - 8.3.f.13. Use submission holds to control a person;

- 8.3.f.14. Locate and observe crowd agitators;
- 8.3.f.15. Patrol riot stricken or civil disturbance areas;
- 8.3.f.16. Physically restrain a crowd;
- 8.3.f.17. Catch a falling person to prevent injury;
- 8.3.f.18. Use body language to project control and influence a situation;
- 8.3.f.19. Use voice commands to project control and direct actions; and
- 8.3.f.20. Hold a flashlight in one hand while performing various police duties.

8.3.g. Use Deadly Weapons. -- In using deadly weapons, an officer may:

- 8.3.g.1. Clean and inspect weapons;
- 8.3.g.2. Discharge a firearm at a vehicle;
- 8.3.g.3. Discharge a firearm in low light conditions;
- 8.3.g.4. Discharge a firearm at a person;
- 8.3.g.5. Draw a weapon to protect himself or herself or a third party;
- 8.3.g.6. Participate in firearms training;
- 8.3.g.7. Secure a firearm when off duty (e.g., home);
- 8.3.g.8. Fire a weapon in a dark environment with a flashlight in one hand;
- 8.3.g.9. Fire a weapon in low light combat (not including training);
- 8.3.g.10. Fire a weapon in daytime combat (not including training);
- 8.3.g.11. Carry a firearm when off duty; and
- 8.3.g.12. Discharge a weapon at an animal.

8.3.h. Provide Emergency Assistance. -- In providing emergency assistance, an 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 officer may:

- 8.3.i.1. Conduct complete criminal investigations;
- 8.3.i.2. Respond to and conduct preliminary investigation of events including but not limited to criminal activity, traffic crashes and disasters.
- 8.3.i.3. Conduct on-the-scene suspect identifications (e.g., show-up or one-on-one suspect identification);
- 8.3.i.4. Conduct stationary surveillance of individuals or locations;
- 8.3.i.5. Determine whether incidents are criminal or civil matters;
- 8.3.i.6. Determine whether recovered property is linked with a previous crime; and
- 8.3.i.7. Exchange necessary information with other law enforcement officials (including intelligence information).

8.3.j. Write and Read Reports and Other Documents. -- In writing and reading reports and other documents, an 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 officer may:

- 8.3.k.1. Present evidence in legal proceedings;
- 8.3.k.2. Review reports and notes prior to court testimony;
- 8.3.k.3. Testify at evidence suppression hearings;
- 8.3.k.4. Testify at probable cause preliminary hearings;
- 8.3.k.5. Testify before grand juries;
- 8.3.k.6. Testify in criminal trials; and

8.3.k.7. Testify in administrative hearings (e.g., Division of Motor Vehicles' (DMV) drivers license revocation, breath test refusal):

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

- 8.3.l.1. Operate a vehicle to transport prisoners; and
- 8.3.l.2. Search a vehicle for weapons and contraband (e.g., before and after prisoner

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

- 8.3.m.1. Interrogate adult suspects;
- 8.3.m.2. Interview complainants, witnesses, etc.;
- 8.3.m.3. Interview victims of sex crimes.
- 8.3.m.4. Interrogate a suspect or witness with use of polygraph results;
- 8.3.m.5. Interview informants;
- 8.3.m.6. Take statements of witnesses; and
- 8.3.m.7. Interrogate juvenile suspects.

8.3.n. Conduct Traffic Crash Investigations. -- In conducting traffic crash investigations, an officer may:

- 8.3.n.1. Collect physical evidence from a crash scene;
- 8.3.n.2. Complete the standard Division of Highways traffic crash report form;
- 8.3.n.3. Determine contributing factors to a crash;
- 8.3.n.4. Diagram crash scenes;
- 8.3.n.5. Protect traffic crash physical evidence for collection; and
- 8.3.n.6. Take precautions to prevent additional crashes at a crash scene.

8.4. Equipment Used by Law Enforcement Officers. In performing the essential functions of the job, an officer may use the following:

- 8.4.a. A roadside preliminary breath test;
- 8.4.b. An automobile;
- 8.4.c. A baton;
- 8.4.d. Body armor;
- 8.4.e. A fire extinguisher;
- 8.4.f. A first aid kit;
- 8.4.g. Road flares;
- 8.4.h. A flashlight;
- 8.4.i. Flexi-cuffs;
- 8.4.j. Handcuffs;
- 8.4.k. A handheld police radio;
- 8.4.l. A police car radio;
- 8.4.m. A public address system;
- 8.4.n. A speed measuring device;
- 8.4.o. A handgun;
- 8.4.p. A shotgun;
- 8.4.q. Lights and sirens;
- 8.4.r. Rubber gloves;
- 8.4.s. Ammunition and ammunition magazines; and
- 8.4.t. Weapon cleaning equipment.

8.5. Medical Standards. -- All applicants for entry into an 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 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 an entry-level training program (W.Va. Code §8-22-16).

8.5.c. The Medical History Statement and Medical Examination Report are valid for a one-year period, to be measured from the date of the examining physician's signature on the State of Condition page of the Medical Examination Report.

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

8.5.d.1. Eyes and Vision. -- With regard to eyes and vision, the examining physician shall note any of the following conditions:

8.5.d.1.A. Visual Acuity -- An applicant's uncorrected vision may be equal to but not worse than 20/100 in the weaker eye, and shall be correctable to better than, or equal to, 20/30 (Snellen) in each eye. Means of correction must be worn on the job and the means of correction shall not interfere with proper fitting of a facial mask, e.g., gas mask, riot helmet or air or blood borne pathogen masks, etc.

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

8.5.d.1.C. Ophthalmological procedures such as radial keratotomy, repair of retinal detachment. Sufficient time (minimum, six months) shall have passed to allow stabilization of visual acuity and to ensure that there are no post surgical complications.

8.5.d.1.D. Visual Acuity -- Color Vision: The applicant shall pass a "controlled color discrimination test", such as, United States Department of Transportation Color Vision Examination.

8.5.d.1.E. Visual Acuity -- Depth Perception: An applicant's depth perception should be sufficient to demonstrate normal stereo depth perception with or without correction to the standard: 80 ARC seconds.

8.5.d.1.F. The examining physician shall note any other conditions which may interfere with the applicant's ability to perform the essential tasks listed in the job description of entry-level law enforcement officer.

8.5.d.2. Ears and Hearing. -- With regard to ears and hearing, the examining physician shall note any of the following conditions:

8.5.d.2.A. Hearing Acuity -- Using an audiometer, the applicant should have less than average loss of 25 or more decibels at the 500, 1000, 2000, and 3000 Hertz (Hz) levels in either ear with no single frequency loss in excess of 40.

8.5.d.2.B. Acute Otitis Media, Otitis Externa, and Mastoiditis -- If the applicant meets hearing acuity guidelines, then these conditions are non-disqualifying.

8.5.d.2.C. Any Inner /Middle/Outer Ear Disorder Affecting Equilibrium, e.g., Meniere's

Disease - If the applicant has historically had episodes of vertigo, the applicant may require further evaluation.

8.5.d.3. Nose, Throat, and Mouth. -- With regard to the nose, throat and mouth, the examining physician shall note any of the following conditions:

8.5.d.3.A. Loss of sense of smell;

8.5.d.3.B. Aphonia, speech loss or speech defects; and

8.5.d.3.C. Abnormalities of the nose, throat, or mouth, except as described in subparagraphs 8.5.d.3.A. and 8.5.d.3.B. - If the abnormality does not interfere with the applicant's breathing, or the proper fitting of a gas mask, the condition is non-excludable.

8.5.d.4. Peripheral Vascular System. -- With regard to the peripheral vascular system, the examining physician shall note any of the following conditions:

8.5.d.4.A. Hypertension - An applicant's resting blood pressure should be less than, or equal to, 140 mmHg systolic and 90 mmHg diastolic on three successive readings. If the applicant has controlled hypertension not exceeding this standard and is on medication with side effect profiles which do not interfere with the performance of his or her duty as an entry-level law enforcement officer, the condition may not cause the applicant to be excluded. The applicant shall have a functional and therapeutic cardiac classification no greater than 1A, i.e., Functional Capacity I: Applicants with cardiac disease and no limitation of physical activity. Ordinary physical activity does not cause discomfort. Applicants in this class do not have symptoms of cardiac insufficiency, nor do they experience anginal pain. Therapeutic Classification A: Applicants with cardiac disease whose physical activity need not be restricted.

8.5.d.4.B. Peripheral Vascular Abnormality - Any condition that is severe or symptomatic may cause the applicant to be excluded, e.g., arterial insufficiency, deep or superficial vein thrombophlebitis, or Raynaud's Disease.

8.5.d.5. Heart and Cardiovascular System. -- With regard to the heart and cardiovascular system, the examining physician shall note any condition that may interfere with the applicant's ability to perform the duties attendant to the position of a basic entry-level officer as well as any of the following conditions. The following conditions may or may not exclude an applicant from consideration depending on their effect in performance of the job duties as set forth in this section.

8.5.d.5.A. Congenital Heart Disease - If the applicant's functional work capacity is unimpaired, then the condition may not cause the applicant to be excluded.

8.5.d.5.B. Valvular Heart Disease - Includes significant valvular insufficiency, significant septal defects (any valve), and prolapsing mitral valve (symptomatic).

8.5.d.5.C. Coronary Artery Disease.

8.5.d.5.D. ECG Abnormalities (if associated with organic heart disease) - Including but not limited to: WPW Syndrome, ST Depression, Partial or Complete Left Bundle Branch Blocks, 3 Degree A-V Block, Mobitz Type II A-V Blocks, Sinoatrial Block or Sick Sinus Syndrome, Ventricular Extrasystole (frequent - 20/minute with exercise, 10 minutes without exercise), Ventricular Tachycardia, Atrial Fibrillation or Flutter, Episodic Supraventricular Tachycardia or Consistent Supraventricular Tachycardia at Rest or Persistent After Exercise even if Asymptomatic.

8.5.d.5.E. Angina;

8.5.d.5.F. Congestive Heart Failure;

8.5.d.5.G. Cardiomyopathy; and

8.5.d.5.H. Pericarditis, Endocarditis, and Myocarditis.

8.5.d.6. Respiratory System. -- With regard to the respiratory system, the examining physician shall note any of the following conditions:

8.5.d.6.A. Any chronically disabling conditions that would interfere with the applicant's ability to perform essential job tasks;

8.5.d.6.B. Infectious or potentially infectious Pulmonary Tuberculosis;

8.5.d.6.C. Chronic Bronchitis;

8.5.d.6.D. Chronic Obstructive Pulmonary Disease;

8.5.d.6.E. Emphysema;

8.5.d.6.F. Restrictive Lung Diseases;

8.5.d.6.G. Bronchiectasis and Pneumothorax (current or repeated history);

8.5.d.6.H. Pneumonectomy;

8.5.d.6.I. Acute Mycotic diseases - Including but not limited to coccidiomycosis and histoplasmosis;

8.5.d.6.J. Acute Pleurisy;

8.5.d.6.K. Malignant Disease - Any condition that may interfere with the applicant's ability to perform the duties attendant to the position of a basic entry-level officer shall be noted.

8.5.d.7. Gastrointestinal System. -- With regard to the gastrointestinal system, the examining physician shall note any of the following conditions. If any of the following or other G-I condition is controlled, then they may not cause the applicant to be excluded.

8.5.d.7.A. Colitis - Including but not limited to Crohn's Disease, Ulcerative Colitis, Irritable Bowel Syndrome (symptomatic or needing medication), Bacterial Colitis;

8.5.d.7.B. Diverticulitis;

8.5.d.7.C. Esophageal disorders - Including, but not limited to, Esophageal Stricture, Lower Esophageal Ring and Esophageal Spasm.

8.5.d.7.D. Pancreatitis;

8.5.d.7.E. Gall Bladder disorders;

8.5.d.7.F. Active Peptic Ulcers;

8.5.d.7.G. Symptomatic Inguinal, Umbilical, Ventral, Femoral, or Incisional Hernias;

8.5.d.7.H. Malignant Disease of the Liver, Gall Bladder, Pancreas, Esophagus, Stomach, Small or Large Bowel, Rectum, or Anus;

8.5.d.7.I. Gastrointestinal Bleeding;

8.5.d.7.J. Active or Chronic Hepatitis;

8.5.d.7.K. Cirrhosis of the Liver; and

8.5.d.7.L. Motility Disorders, e.g., Scleroderma.

8.5.d.8. Genitourinary System. - With regard to the genitourinary system, the examining physician shall note any conditions that may interfere with the applicant's ability to perform essential job tasks listed in this section as well as any of the following conditions;

8.5.d.8.A. Pregnancy;

8.5.d.8.B. Nephrectomy - If an applicant possesses this condition with normal natural renal function, then the condition is non-disqualifying;

8.5.d.8.C. Acute Nephritis;

8.5.d.8.D. Nephrotic Syndrome;

8.5.d.8.E. Acute Renal or Urinary Calculi;

8.5.d.8.F. Renal Transplant;

8.5.d.8.G. Renal Failure;

8.5.d.8.H. Hydrocele and Varicocele (Symptomatic);

8.5.d.8.I. Malignant Diseases of Bladder, Kidney, Ureter, Cervix, Ovaries, Breasts, Prostate, etc.;

8.5.d.8.J. Active Venereal Diseases;

8.5.d.8.K. Urinary Tract Infection;

8.5.d.8.L. Polycystic Kidney Disease;

8.5.d.8.M. Pelvic Inflammatory Disorders;

8.5.d.8.N. Endometriosis;

8.5.d.8.O. Inflammatory Disorders, e.g., prostatitis, orchitis, epididymitis; and

8.5.d.8.P. Scleroderma.

8.5.d.9. Endocrine and Metabolic Systems. -- With regard to the endocrine and metabolic

systems, the examining physician shall note any of the following conditions:

8.5.d.9.A. Uncontrolled Thyroid Disease;

8.5.d.9.B. Diabetes Mellitus - Potential excludability requires a case by case assessment by a physician designated by the Law Enforcement Training Subcommittee as to the control of diabetes and presence and severity of symptoms and complications;

8.5.d.9.C. Adrenal Dysfunction - Including but not limited to Addison's Disease and Cushing's Disease;

8.5.d.9.D. Insulin Reactions; and

8.5.d.9.E. Untreated Thyroid Malignancy.

8.5.d.10. Musculoskeletal System. -- With regard to the musculoskeletal system, the examining physician shall note any condition that may interfere with the applicant's ability to perform essential job tasks listed in this section as well as any of the following conditions:

8.5.d.10.A. Disorders that limit motor function;

8.5.d.10.B. Cervical Spine or Lumbar Sacral Fusion;

8.5.d.10.C. Degenerative Cervical or Lumbar Disc Disease (if symptomatic);

8.5.d.10.D. Extremity amputation;

8.5.d.10.E. Osteomyelitis;

8.5.d.10.F. Muscular Dystrophy;

8.5.d.10.G. Loss in the motor ability from tendon or nerve injury or surgery - In an area relevant to the applicant's performing the essential tasks of the job;

8.5.d.10.H. Arthritis - If the applicant possesses this condition with no functional impairment, then the condition is non-excludable;

8.5.d.10.I. Coordinated balance;

8.5.d.10.J. Symptomatic Herniated Disc; and

8.5.d.10.K. Spinal Deviations.

8.5.d.11. Hematopoietic and Lymphatic Systems. -- With regard to the hematopoietic and lymphatic systems, the examining physician shall note any of the following conditions:

8.5.d.11.A. Hematopoietic disorders (including malignancies), e.g., SCD, thalassemia, G6PSD, etc.; and

8.5.d.11.B. Hemophilia.

8.5.d.12. Nervous System. -- With regard to the nervous system, the examining physician shall note any condition that may interfere with the applicant's ability to perform essential job tasks listed

in this section as well as any of the following conditions:

8.5.d.12.A. Seizure disorder (all types);

8.5.d.12.B. Cerebral Palsy;

8.5.d.12.C. Movement disorders, e.g., Parkinson's;

8.5.d.12.D. Cerebral Aneurysms;

8.5.d.12.E. Syncope;

8.5.d.12.F. Progressive Neurological Diseases - Including but not limited to Multiple Sclerosis and Huntington's Chorea;

8.5.d.12.G. Peripheral Nerve Disorder - Including but not limited to Polyneuritis, Mononeuritis, and Neurofibromatosis;

8.5.d.12.H. Narcolepsy;

8.5.d.12.I. Cerebral vascular accident; and

8.5.d.12.J. Central nervous system infections.

8.5.d.13. Any condition listed in this Subsection of this 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 or fail screening for admission into an 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, where otherwise not set by this Section, may be established by the Subcommittee.

8.6.c. The three (3) elements of the test battery are designed to confirm the physical ability to perform entry-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 an entry-level training program.

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

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

8.6.d.2. Push-ups (Absolute Strength) - The score is the number of conventional push-ups performed in one (1) minute. A conventional push-up is defined as an exercise performed in the prone position by raising and lowering the body with the straightening and bending of the arms, while keeping the back straight and supporting the body on the hands and toes. The push-ups will be scored by one of the following two standards:

8.6.d.2.A. The counter will place his or her fist on the floor with the nails of their fingers to the floor. If done this way, the applicant's chest must touch the fist for the push-up to be complete; or

8.6.d.2.B. Using a block of wood, dimensions of which shall be set by the Subcommittee, on which the counter may place his or her finger. If done this way, the applicant's chest must touch the counter's finger for the push-up to be complete.

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

8.6.e. Applicants who successfully completed all three (3) elements of the physical ability test may use the passage of this test for entry into the entry-level training program.

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

8.6.g. Failure of any applicant to participate in an assigned physical ability testing shall be recorded as failure of the physical ability test. Applicants who, as the result of extenuating circumstances, are unable to attend and participate in a scheduled physical ability testing shall advise the 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 entry-level training but are less rigid because of the short duration and narrower scope of the training programs. All in-service programs approved by the Subcommittee shall be conducted in adequate and proper facilities.

#### 9.2. Classrooms.

9.2.a. The classroom used shall be large enough to comfortably accommodate the maximum number of trainees attending and shall be approved by the Subcommittee in advance of the starting date.

9.2.b. Artificial or day lighting shall provide good visibility under normal environmental conditions and shall permit the use of audio-visual training aids.

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

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

#### 9.3. Classroom Amenities

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

9.3.b. Desks or tables shall have smooth tops and shall be of a size as to comfortably permit note taking by adult trainees.

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

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

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

9.4. Restrooms. -- Separate restrooms for both sexes shall be available.

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

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

10.1. Annual in-service training required by the Committee for continued certification shall consist of a minimum of sixteen (16) hours, exclusive of firearms qualification. A maximum of twenty-five percent (25%) of the training may be web-based provided that the training is pre-approved by the Subcommittee.

10.1.a. Certified law enforcement instructors may request from the Subcommittee that up to a maximum of eight (8) hours of annual in-service training credit be given for teaching in a Subcommittee approved annual in-service training course. This credit shall be requested on an hour for hour basis in even increments and shall only be applicable within that individual instructor's appropriate training period. This request for credit shall be made at the time the in-service training course application is presented to the Subcommittee for consideration.

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

10.2.a. Each handgun qualification shall be with the individual's unmodified primary service handgun and shall consist of a course of fire requiring a minimum of thirty two (32) rounds ranging from the three yard line to the fifteen yard line on a Subcommittee approved target.

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

10.3. To qualify for funding or credit for continued certification, all curricula shall be approved in advance by the Subcommittee.

10.3.a. The Subcommittee reserves the right to review or approve, on a case-by-case basis, any curricula that was not approved in advance, as required by §149-2-10.3. of this Rule.

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

10.5. Subject matter shall include the majority of subjects included in the entry level training curriculum or other subjects of a specialized nature. Successful completion, as defined by the sponsoring or presenting training organization, is required for the training to be credited against the training requirement set forth in Subsections §149-2-10.1 and §149-2-11.2 of this Rule.

10.6. Requests for training funds or in-service training credit shall consist of the following:

- 10.6.a. a list of the program objectives;
- 10.6.b. the names, titles and agencies of the instructors;
- 10.6.c. the date and time at which the training is scheduled;
- 10.6.d. the facility at which the training will be conducted; and,
- 10.6.e. the name, title and agency of the person in charge of the training.

10.7. Regulations of the host agency shall govern the conduct of the training program; however, each officer is required to attend and complete the full program and, if examinations are given, attain at least a 75% on the examination.

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

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

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

11.2.a. Certified law enforcement instructors may request from the Subcommittee that up to a maximum of eight (8) hours of supervisory level in-service training credit be given for teaching in a Subcommittee approved supervisory level in-service training course. This credit shall be requested on an hour for hour basis in even increments and shall only be applicable within that individual instructor's appropriate training period. This request for credit shall be made at the time the in-service training course application is presented to the Subcommittee for consideration.

#### **11.3 Curriculum for Supervisory In-Service Training.**

11.3.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 and 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 in-service credit is desired shall meet the standards established by the Subcommittee for certification as set forth in Section §149-2-5 of

this Rule.

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

13.1. Individual officers successfully completing an entry-level training program shall make written application to the Committee requesting certification.

13.2. Individual officers beginning employment after July 1, 1981, who are certifiable via the equivalent certification provision of W. Va. Code §30-29-5 and Section §149-2-14 of this Rule shall make application to the Committee for certification during the period that they are ~~competing~~ completing the training set forth in Subsection §149-2-14.1.e. of this Rule.

13.3. The Director of an approved academy shall promptly provide the names of officers and their agencies successfully completing or failing to complete an entry-level training program.

13.4. The certification of each law enforcement officer is reviewed annually following his or her first certification and until the officer achieves exempt rank (sergeant or above), reviewed biannually thereafter, by the Subcommittee and the head of the officer's employing West Virginia law enforcement agency to ensure employee compliance with the requirements set forth in this Rule.

13.5. Certification may be revoked or suspended if any law enforcement officer fails to complete the applicable in-service training and firearms qualification requirements set forth in Sections §149-2-10 and §149-2-11 of this Rule.

~~13.6. Law enforcement agencies shall provide within ten (10) working days written notice of the employment or termination of employment of officers in their department, giving the officer's full name and social security number. Notification of semiannual firearms qualification results shall include the full name and social security number of officers. As a requirement of certification, a law enforcement officer must notify the Subcommittee within ten (10) days of being charged with a crime (excluding minor traffic offenses). Failure to notify the Subcommittee may result in his or her certification being revoked or suspended.~~

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

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

14.1.a. Have completed a Peace Officer's Standards and Training Commission (POST) approved basic entry-level training program or equivalent federal law enforcement training, excluding military police;

14.1.b. Have been certified as a law enforcement officer in the state where the entry-level training was completed or by the federal government;

14.1.c. Give notice, upon employment to the ~~Law Enforcement Training Coordinator~~ Subcommittee of his or her desire to seek and be granted equivalent certification as a West Virginia law enforcement officer.

14.1.d. Submit a completed application, as defined in Subdivision §149-2-8.2.a.1. of this Rule, to the training academy within ninety (90) calendar days of their date of employment via the equivalent training provision of the law which shows that they meet the requirements for admission into an entry-level training program; and,

14.1.e. Complete the following entry-level courses within twelve (12) months from the date of employment : Provided, that under extenuating circumstances the Subcommittee may grant a waiver.

14.1.e.1. Firearms Training and Certification;

14.1.e.2. Emergency Vehicles Operations Course;

14.1.e.3. Defensive Tactics;

14.1.e.4. Laws of Arrest;

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

14.1.e.6. Criminal Law;

14.1.e.7. Domestic Crimes; and,

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

14.2. Applicants for equivalent certification who have had their certification revoked or suspended by a POST, and are ineligible for re-certification from that POST, may not make application for equivalent certification in the State of West Virginia.

14.3. During the training set forth in Subsection §149-2-14.1.e. of this Rule the applicant shall complete an application for certification to be submitted to the Subcommittee.

14.4. The Subcommittee shall form a review board which shall review all applications for equivalent certification. The equivalent certification review board shall determine if the applicant's prior law enforcement training is equivalent to the current training standards in West Virginia, and make a recommendation to the law enforcement training sub-committee as to whether the applicant is eligible for equivalent certification. One member of this review board shall be the Director, or his or her deignee, of the West Virginia State Police Academy.

14.5. Any currently employed law enforcement official who failed to complete equivalent training for certification pursuant to the provisions of this section may, beginning the first day of July, two thousand three, until the thirtieth day of September, two thousand three, apply for equivalent certification pursuant to the provisions of this section.

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

15.1. The purpose of this section is to establish guidelines for the retraining of certified law enforcement officers who have not performed the duties of an entry-level law enforcement officer as defined in Subsection §149-2-8.3. of this Rule and who have not obtained mandated in-service training as required by Subsections §149-2-10.2 and §149-2-11.2. of this Rule or qualified with their weapon as required in Subsection §149-2-10.2. of this Rule. For the purposes of this Section, "separated" means any absence from duty, regardless of remedies or status available to the officer, which results in the officer not performing the duties of an entry-level law enforcement officer in West Virginia. This may include, but is not limited to the following: extended active military service; injuries or illness which result in the officer receiving temporary disability, sick leave, or workers compensation benefits; suspensions from an agency regardless of the final outcome; placement of an officer on light duty which exceeds twenty-four months; termination; or resignation.

15.2. Law enforcement officers, or law enforcement officials who desire to re-certify as a law enforcement officer, who have been separated from a law enforcement agency for twenty-four (24) months or less; who are in good standing; and who were certified under the provisions of W. Va. Code §30-29-5; and have been reappointed as a law enforcement officer or law enforcement official by a law enforcement agency; are not required to meet entrance level standards again if:

15.2.a. Within ninety (90) days from the date of employment the individual attends and completes the mandated in-service training for the period and rank; and,

15.2.b. Within ninety (90) days from the date of employment the individual qualifies with his or her duty weapon.

15.3. Law enforcement officers, or law enforcement officials who desire to re-certify as a law enforcement officer, who have been separated from a law enforcement agency for more than twenty-four (24) months, but less than sixty (60) months; who are in good standing; and who were certified under the provisions of W. Va. Code §30-29-5; and have been reappointed as a law enforcement officer or law enforcement official by a law enforcement agency; are required to either test for credit in lieu of attending any of the classes required for re-certification or, attend and successfully complete within twelve (12) months of the date of employment, the following courses : Provided, That the Subcommittee may grant a waiver under extenuating circumstances. The Subcommittee may, at its discretion, require a course to be completed and not allow a test for credit.

15.3.a. Firearms Training and Certification;

15.3.b. Emergency Vehicle Operations Course;

15.3.c. Defensive Tactics;

15.3.d. Laws of Arrest;

15.3.e. West Virginia Motor Vehicle Law;

15.3.f. Criminal Law Update;

15.3.g. Domestic Crimes; and,

15.3.h. Laws of Search and Seizure.

15.4 Law enforcement officers, or law enforcement officials who desire to re-certify as a law enforcement officer, who have been separated from a law enforcement agency in this state for more than sixty (60) months must first receive the approval of the Subcommittee to be re-certified as a law enforcement officer under the process set forth in subsection 15.3 preceding. The Subcommittee, on review of the entry level training and other training completed by such a law enforcement officer may prescribe additional training to be completed in addition to the classes set forth in subsection 15.3 preceding, such training to comprise, when determined necessary by the Subcommittee that the law enforcement officer attend the full entry level training program in effect at the time the review is completed.

15.415.5. Within ninety (90) calendar days of their date of employment, re-certification applicants who meet the guidelines set forth in Subsection §149-2-15.3 of this Rule shall submit a completed application to the academy which shows they meet the requirements for admission to an entry-level training program.

~~15.5~~15.6. Applicants for re-certification by prior arrangement with the academy may test for credit in any of the classes required for re-certification. If applicable, the applicant shall pass both written and practical tests at the academy standard to receive credit for the class. If the applicant does not meet the academy standard on any written or practical test, the applicant shall attend and meet the academy standard for each of the entry level courses failed by the applicant.

~~15.6~~15.7. Any currently employed law enforcement official who failed to complete training for re-certification pursuant to the provisions of this section may, beginning the first day of July, two thousand three, until the thirtieth day of September, two thousand three, apply for re-certification pursuant to the provisions of this section provided that the law enforcement official is in good standing, and was certified pursuant to the provisions of W. Va. Code §30-29-5.

**§149-2-16. Certification Denial, Suspension or DecertificationRevocation.**

16.1. The Committee, upon the recommendation of the Subcommittee, may suspend, ~~decertify~~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 that 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. His or her certification as a law enforcement officer has been suspended, denied or revoked by another state's Peace Officers Standards and Training Commission.

16.1.i. Any conduct or a pattern of conduct unbecoming to a law enforcement officer or law enforcement official or activities that would tend to disrupt, diminish, or otherwise jeopardize public trust and fidelity in law enforcement.

16.2. Employment by another agency or reinstatement of a law enforcement officer by his parent agency after termination, whether termination was voluntary or involuntary, does not preclude suspension, revocation or denial of law enforcement certification, if the law enforcement officer was terminated for any of the reasons contained in this section.

16.3. Termination of a law enforcement officer, whether voluntary or involuntary, does not preclude suspension, revocation or denial of law enforcement certification, if the officer was terminated for any of the reasons contained in this section.

~~16.4. The Subcommittee may not suspend, revoke, or deny law enforcement certification when an officer is terminated for infractions of his or her agency's policies, general orders, or similar guidelines of operation that do not amount to any of the causes outlined in this section.~~

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

16.65. 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 exercise any authority as a law enforcement officer during the period for which their certification is suspended, revoked or denied.

**§149-2-17. Certified law enforcement officers separated from employment.**

17.1 The certification of a law enforcement officer who is separated from his or her employment with a West Virginia law enforcement agency, shall immediately become inactive and remain inactive until the subcommittee authorizes reactivation of the officer's certification pursuant to the procedure set forth in this section.

17.1.a. For the purposes of this Section, "separated" means an absence from duty from any West Virginia law enforcement agency as a result of retirement, resignation, or termination.

17.1.b A person whose law enforcement certification has become inactive and desires reactivation, shall apply to the subcommittee by proper application, to have his or her certification reactivated.

17.2 Whenever a law enforcement officer separates from a West Virginia law enforcement agency, the chief law-enforcement officer of that law enforcement agency shall notify the subcommittee, by change of status form, of the separation within ten days of the date of separation. The notification of the separation from employment shall include the following reason or reasons the officer is no longer employed. The chief law enforcement officer is required to specify precisely the reason or reasons for items 17.2.c thru 17.2.e in the comments section of the form.

17.2.a Retirement

17.2.b Resignation

17.2.c Retirement or resignation in lieu of termination

17.2.d Retirement or resignation while under investigation or allegations of misconduct

17.2.e Termination

17.3 The Subcommittee shall form a three person review board consisting of chair of the subcommittee and two additional members of the full Subcommittee. Upon receipt of an application for reactivation, the review board shall review the notification of separation received from the law enforcement agency with which the applicant was most recently employed, and unless the notification

indicates that the separation from employment was based on circumstances pertaining to Subsections 17.2c, 17.2d or 17.2.e of this Rule that would result in the applicant being ineligible for certification, the Subcommittee shall grant the applicant a temporary reactivation of his or her certification until a final determination is made pursuant to Subsection 17.5 of this Rule. The review board will notify the Subcommittee of their actions and decisions.

17.3a. Upon receipt of an application for reactivation, the review board of the Subcommittee may request that the law-enforcement agency from which the applicant was most recently separated, provide a copy of the applicant's personnel file or other information relevant to the applicant's separation of employment.

17.3.b. For the purpose of making a determination on an application for reactivation, the Subcommittee is authorized to examine witnesses and to subpoena persons, books, records or documents from law enforcement agencies in this state.

17.3.b.1. The review board of the Subcommittee shall request through the chair of the Subcommittee that subpoenas be issued.

17.3.b.2. The Subcommittee may empower an investigator employed by the Division of Justice and Community Services to act on their behalf and report findings of fact to the review board.

17.4 Upon receipt of a request by the Subcommittee via certified mail, the chief law-enforcement official of the law enforcement agency with which the applicant was most recently employed, or his or her designee, shall, within eight calendar days, provide the Subcommittee with a copy of the applicant's personnel file or other information relevant to the applicant's separation of employment.

17.4.a. An applicant shall be entitled to a copy of all documents or other materials submitted to the Subcommittee related to the application.

17.5 Within 30 days of the receipt of the applicant's personnel file or any other information provided by the law enforcement agency, the Subcommittee shall review the information and issue a final decision. Provided that; the 30 days begin upon receipt all applicable documents, records, etc. requested or subpoenaed.

17.6 An application for reactivation shall be approved unless the Subcommittee affirmatively demonstrates, in writing, that the applicant has engaged in conduct that may result in his or her decertification, as provided in section 16.1 of this rule. Where information available to the Subcommittee indicates that the applicant has engaged in conduct that is in violation of this rule or other laws or rules, the application for reactivation may not be granted.

17.7 An applicant whose certification is not reactivated pursuant to a final decision of the subcommittee, may appeal the final decision of the Subcommittee pursuant to CSR §149-2-1 and Section 29A, Article 4, Chapter 29 of the W.Va. Code.

17.8 Nothing in this section shall be construed to require the rehiring of a person by a law enforcement agency from which he or she was separated, even though the Subcommittee authorizes his or her certification to be reactivated.

17.9 A law enforcement official, or appointing officer, or his or her designee, is immune from civil liability for providing to the Subcommittee any information required or requested by this section.

17.10 All information and materials collected as a result of this section shall be retained in a computer database.

17.10.a The database shall be controlled by the Division of Justice and Community Services and operated under rules and policies developed by the Division.

17.10.b Information maintained in the database may be released to a law enforcement official based upon policies established by the Division and the Subcommittee.

**§149-2-1718. Certification Retention.**

~~17.1.~~ 18.1. 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, as set forth in subsections §149-2-17.1 to 17.3 of this Rule, may continue their law enforcement certification in the active status by:

~~17.1.a.~~ 18.1.a. Completing an application for certification reactivation and approval for certification continuation prior to or no later than ninety (90) days after separation from active law enforcement employment;

~~17.1.b.~~ 18.1.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.~~ 18.1.c. Qualifying with their weapon as required for active officers.

~~17.2.~~ 18.2. 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.