

**Montana Public Safety Officer
Standards and Training Council**



**September 3, 2014
Meeting Materials**

**Approval of Minutes:
May 8, 2014 Meeting
Draft Minutes**

MINUTES
MONTANA POST COUNCIL
May 8, 2014 8:00 a.m.
MLEA Rooms 213/214
Helena, MT

PRESENT

Tony Harbaugh - Chairman
Laurel Bulson
Jim Cashell
Bill Dial
Tia Robbin
Jesse Slaughter
John Strandell
Jim Thomas

NOT PRESENT

Mike Batista
Kimberly Burdick
Lewis Matthews
Jim Smith

STAFF

Perry Johnson – Executive Director
Katrina Bolger – Paralegal/Investigator
Mary Ann Keune – Administrative Assistant

LEGAL COUNSEL

Sarah Clerget
Chris Tweeten

GUESTS

Wade Nash – Chief - Polson Police Department
Kevin Olson – Administrator - MLEA
Trent Harbaugh – Undersheriff - Fallen County Sheriff's Office
Ron Price – Chief - Bozeman Police Department
Truman Tolson – Training Officer - Missoula Police Department
Ryan Oster – Chief - Hamilton Police Department
Kurt Stinson – Captain - Helena Police Department

WELCOME

Roll Call: 8:30
Tia Robbin gave a short biography about herself.
Jim Thomas spoke about the Boston Marathon he and his wife ran.

MINUTES

Bill Dial moved and John Strandell seconded the motion to approve the minutes of the February 26, 2014 meeting as submitted. Motion carried, all Council members voted in favor.

GUEST ISSUES

Kevin Olson spoke about the MLEA's relationship with POST. He stated he is very happy and impressed with the changes being made at POST.

Curt Stinson offered a Conference Room at the airport for the next phone conference. Perry Johnson hopes to hold the December meeting at the airport.

OLD BUSINESS

ARMs

The ARMs have been reviewed line by line by the ARMs Subcommittee.

Instructor Development

Perry Johnson asked for clarification by the Council concerning the Instructor Development class requiring 40 hours of instruction for the Instructor Certificate. 23.13.401 (c) must have successfully completed a 40 hours minimum instructor development course of equivalent approved by the council. Should the requirement remain at 40 hours or is 32 hours sufficient.

Truman Tolson and Kevin Olson thought it should remain 40 hours. Jesse Slaughter and Bill Dial thought the quality of content was more important than the number of hours. Jim Thomas would like to see the Council come up with a list of requirements to be taught in an Instructor Development Course.

Perry Johnson asked if the Council would be comfortable leaving the required hours at 40 or equivalent and change the wording from Council to Director and address the training issues with policy. Jim Cashell agreed with addressing the subject matter with policy.

The Council agreed to the word change from Council to Director and to address the subject matter with policy.

Instructor Certification

23.13.301(3)(d) being at least two hours or more in length.

Perry Johnson stated that lesson plans must be submitted with Instructor Certificate Applications. Since the ARM reads that a class must be at least two hours in length to be awarded POST credit, should the lesson plans submitted with the Instructor Certificate Application be required to be at least two hours in length?

The Council agreed the two hour minimum lesson plan requirement should be worked into the instructor certificate ARM.

23.13.401 (6) Initial primary and master instructor certificates shall be issued for a period of 24 months. At the end of the initial time period, certificates may be renewed for an additional 24 months, providing the instructor has remained current in the applicable discipline. This may be accomplished through continuing education and by actively instructing the course(s).

23.13.401(7) After four years of continuous certification, master instructors may be recertified for a four year period.

Perry Johnson asked to be able to give the same consideration for all instructor types in (7).

The Council agreed that all instructors should follow the same process for renewal.

Rule Making Process

Chris Tweeten outlined the process for "Notice of Rule Making". Bill Dial asked several questions concerning the process.

Chris Tweeten suggested the "Notice of Proposed Rule Making" be placed on the POST website and send notice to all the agencies with a link to the website. The email could also encourage public comment.

John Strandell made a motion to proceed with the Rule Making process and accept the Committees 2nd motion including the changes that were made. Jim Thomas seconded the motion. Motion carried, all members voting in favor.

Jim Cashell made a motion for Chris Tweeten to be POST's Hearing Officer for the Public Comment Meeting. Jim Thomas seconded the motion. Motion carried, all members voting in favor.

Chris Tweeten suggested the Council allow Perry Johnson and Tony Harbaugh to keep an eye on the process to set a date for the Public Comment Meeting. The Council agreed.

NEW BUSINESS

Certificate Issues

Ron Price, Chief of the Bozeman Police Department, discussed an officer at his agency that was denied a certificate due to the employment history lacking discipline specific time. The precedent in prior years was to accept total time in service as long as the officer was employed as a Public Safety Officer.

John Strandell made a motion to accept the precedent from prior years and award the certificate. Bill Dial seconded the motion.

Sarah Clerget stated there is plenty of case law to support the Council's decision. Kevin Olson, Wade Nash, and Ron Price stated that some sort of compensation should be given for the years of employment no matter what the discipline is.

Motion carries, all members voting in favor.

Perry Johnson commented that the new ARMs will require time in service be discipline specific to be awarded a certificate.

Perry Johnson informed the Council about another certificate issue. An officer was employed for one year by the Bozeman Police Department and failed to apply for his Basic Certificate before he gained employment at the Columbus Police Department. He applied for his basic certificate after a few months of employment at the Columbus PD. Perry Johnson, Jim Cashell, Jesse Slaughter and Jim Thomas commented on the situation.

Bill Dial made a motion for Perry Johnson to draft a letter to the applicant and Chief Pronovost from the Columbus Police Department. Perry Johnson is to suggest the applicant submit a Basic Certificate Application signed by both the Columbus Police Department Chief and the Bozeman Police Department Chief. Jesse Slaughter seconded the motion. Motion carried, all members voting in favor.

Perry Johnson informed the Council of three officers that had the same discipline specific issues as the first officer. The three officers were awarded certificates based on earlier discussion.

Perry Johnson explained the situation of two Montana Highway Patrol officers who applied for a basic certificate. Each had been granted reciprocity because of prior law enforcement experience. Because they were going to attend the Advanced MHP Academy they weren't required to attend an EQ class at the MLEA. The two officers were given instruction on two classes that weren't covered in the MHP Advanced Academy. Kevin Olson remembered the situation and the discussion surrounding them at the time. Jim Thomas was an instructor at the MLEA at the time and also remembers the two officers. No record of the tests can be found either at the MLEA or at MHP.

John Strandell made a motion to allow these two officers to be awarded their basic certificate. Jesse Slaughter seconded the motion. Motion carried, all members voting in favor.

Perry Johnson discussed a MHP officer that will have his one year in a supervisory position on June. Perry asked the Council to approve the Supervisory Certificate be awarded on the officer's anniversary date as it means a substantial monetary gain for the officer. Tony Harbaugh stated that the Director was given the power to make those certificate decisions in an earlier council meeting. The certificate will be awarded in June.

Perry Johnson explained that an officer applied for an intermediate certificate with four years of experience. Out of the four years, only four months were spent as a deputy. The officer was a Reserve Deputy to rest of the four years. Perry Johnson stated that an officer needs to be "employed" according to the definition of a "Peace Officer". A Reserve Deputy is a "voluntary" position. John Strandell concurred with Perry. Chris Tweeten stated the service of each position isn't equivalent. Wade Nash agreed.

Jesse Slaughter made a motion that as a matter of policy the council does not approve Reserve Officer time towards and certificate because by definition they don't fit the legal definition of a Peace Officer. John Strandell seconded the motion. Perry Johnson wanted the motion changed to: Reserve Officers don't meet the requirement because it is a volunteer position. Motion carried, all members voting in favor.

Closed Cases

Perry Johnson stated there are 18 open cases. April 2, 2014 was the last Case Status Subcommittee meeting. Sarah Clerget stated that there is one case that is at the letter four point.

Introduction of Staff

Perry Johnson spoke about the POST Council office and thinks that it is headed in the right direction. Truman Tolson echoed Perry's statements and noted he is very happy with the support.

Mary Ann Keune and Katrina Bolger each said a few words about their work at POST.

Budget Report

Perry Johnson reported the total budget for the year was \$314,974.00. The projected budget balance for the end of the 2014 fiscal year is \$55,518.00. He pointed out there was a deficit of -20,970.00 at the end of the 2013 fiscal year.

Perry Johnson has spoken with Tony Harbaugh and John Strandell about capturing the POST budget in-house by hiring a staff attorney. Perry had no information to share about the subject as he is waiting to hear back from DOJ. Contested Cases cost POST a tremendous amount of money. Perry also stated he would like to have the ARMs included in the 2014 budget. Tony Harbaugh would like to see the remainder of the funds be used to get the ARMs through the process.

Chris Tweeten shared the last date for submitting the ARMs is June 30 which is within the current budget year. He thought it would be a good idea to talk to a budget analyst to see if the funds could be encumbered once the ARM process is started.

Perry Johnson commented that Tony Harbaugh, Chris Tweeten, Sarah Clerget and himself will work on getting the ARMs ready to submit.

Perry Johnson shared he would like to give \$2,000.00 toward an Officer Involved training. Leo Dutton will be sponsoring this training with a total cost of \$4,000.00. Perry would like POST to co-sponsor the training.

John Strandell made a motion to support the training. Jessing Slaughter seconded the motion. Motion carried, all member voting in favor.

Coroner Training

Perry Johnson reported he would like POST to keep an eye on the Coroner training and establish a partnership with the Coroner Association. Tony Harbaugh stated that Willie Kemp is working on some online classes.

IADLEST

Perry Johnson spoke concerning the National IADLEST Conference in Florida in June. At this point, Perry would rather spend funds with an outreach, visiting agencies across the state. He is interested in attending the Western States IADLEST Conference in the fall. Kevin Olson shared that he has attended the National IADLEST Conference and encouraged Perry to attend at some point. Jesse Slaughter also thinks that POST should seriously consider building an IADLEST Conference into the budget.

LEGAL UPDATE

Chris Tweeten reported that the Lake County claim is still in the “gathering evidence” process.

Chris Tweeten also reported on the ARMs. He has been in touch with the Legal Counsel for the Law and Justice Interim Committee. Julianne Burkhardt will look at the draft in the next two or three weeks. Chris thinks POST should lead a legislative suggestion to delete “GED” in the statute. Another issue Chris believes the Council may need to discuss is the question of whether the Council wants to be designated as a Law Enforcement Agency for the purpose of the Criminal Justice Act.

Bill Dial and Jim Cashell had questions concerning the Criminal Justice designation. Sarah Clerget shared that she has already drafted the legislation on these issues along with legislation concerning a mental health examination by a licensed physician. Those drafts will be resurrected and used. John Strandell agreed that it would be a good idea to petition for the Criminal Justice designation.

The list of prior legislation will be placed on the agenda for the next Council meeting. John Strandell will help lobby for the Criminal Justice Status. Jesse Slaughter and Tony Harbaugh stated they believe the Criminal Justice Status will be supported by their Associations.

Wade Nash agreed with trying to obtain Criminal Justice Status.

Sarah Clerget reported that Carolyn Gray, a summer intern, will be helping POST while Sarah is on maternity leave.

CERTIFICATE REQUESTS

Bill Dial made a motion to approve all 170 certificate requests. Jim Thomas seconded the motion. Motion carried, all members voting in favor.

EXTENSION REQUESTS

Perry Johnson presented four officers that are requesting extension. Jim Cashell made a motion to approve all four extension request. John Strandell seconded the motion. Motion carried, all members voting in favor.

EQUIVALENCY REQUESTS

Perry Johnson presented four officers that are requesting equivalency. Jim Thomas made a motion to approve all four basic equivalency requests. Tia Robbin seconded the motion. Motion carried, all members voting in favor.

COMMITTEE REPORTS

ARMs

Tony Harbaugh – nothing further to add.

Coroner

Tony Harbaugh – reported he attended a good training earlier this week. He believes things are moving in the right direction with POST. POST needs to keep an eye on the two year recertification training for Coroners.

Integrity & Professional Standards

Kimberly Burdick - wasn't present to give a report.

Curriculum

Jim Smith – wasn't present to give a report. Perry Johnson did report that he has a complete package of the Misdemeanor Probation Curriculum. Jim Thomas, Randy Robinson from the MLEA and Perry plan to review the books and report to the Council.

Business Plan

It was noted that former Council member, Georgette Hogan, was the head of the committee. A new head needs to be appointed.

Policy

It was noted that former Council member, Georgette Hogan, was the head of the committee. A new head needs to be appointed.

Jim Thomas asked if there will be a committee to look at the Advanced Instructor Training content. Jim Cashell will head the committee. Bill Dial will co-chair and Jim Thomas will sit on the committee.

PUBLIC COMMENT

Kevin Olson commented that Perry Johnson will be getting the rewrite within the next 60 days of the Detention/Correction Officer Basic curriculum. He also reported that in May the Sheriffs and Chiefs will receive a recommendation that the MLEA has received. APCO has recommended the MLEA increase the Public Safety Communicators basic course from 40 to 64 hours. Tony Harbaugh suggested Kevin contact Jim Smith, the committee head.

Wade Nash added that this was the first POST Council meeting he has attended. He thanked the Council for their dedication and professionalism. He appreciates the great strides that have taken place in the last two years.

Truman Tolson reminded the Council he would love to have access to his officers training records. Perry Johnson reported POST is frustrated with the current software and is shopping around for something better.

Next Face to Face meeting will be held September 3, 2014 at the MLEA.

Next Conference Call will be announced.

Jim Cashell made a motion to adjourn the meeting. Jesse Slaughter seconded the motion. Motion carried, all members voting in favor. Meeting adjourned at 11:47 a.m.

Submitted by:

Mary Ann Keune 8/21/14

Guest Issues:
Jacob Ward



Montana Public Safety Officer Standards & Training Council

2260 Sierra Road East
Helena, MT 59602

Phone: (406) 444-9975
Fax: (406) 444-9978

RECEIVED
1-27-14

APPLICATION FOR AWARD OF CERTIFICATE

Instructions: The applicant completes this form and forwards it to the agency head for his or her recommendation. The agency head then forwards the completed form and all attachments to the POST Council. The Council notifies the agency head of the action taken.

Full Name JACOB WARD Agency Name COLUMBUS POLICE DEPT
POST ID Number _____ Rank/Title POLICE OFFICER
Date of Birth _____ Date Employed by Present Agency 01-02-2014

Field of Employment

- Peace Officer Public Safety Communication Officer ADULT Probation & Parole Officer
 Corrections/Detention Officer Motor Carrier Services Officer JUVENILE Probation & Parole Officer

Certificate Applied for:

Date of Promotion (required for Supervisory, Command & Administrative) _____

- Basic Basic Equivalency Intermediate Advanced Supervisory Command Administrative

Officer Experience *Attach additional pages as necessary.*

Agency BOZEMAN POLICE DEPT Agency _____
Agency Location BOZEMAN MT Agency Location _____
Dates of Employment 12/26/2013 - 12/31/2014 Dates of Employment _____
Highest Rank OFFICER Highest Rank _____

Officer Training *Training must be supported by copies of POST transcripts.*

College Education *Education must be supported by copies of transcripts, diplomas or other verifying documents.*

College and Location _____ Dates Attended _____
Course of Study _____ Hours Completed _____
Major _____ Minor _____ Quarter Semester
Degree Received AA BA BS MA MS

Applicant Certification

I attest that the information contained on this application is true and correct to the best of my knowledge.

Jacob Ward 1/23/14
Signature of Applicant Date

Agency Recommendation

I recommend that the certificate be awarded. I certify that the applicant has complied with the minimum standards set forth in the Administrative Rules of Montana, is of good moral character and is worthy of the award. My opinion is based on personal knowledge of the inquiry, and the personnel records of this jurisdiction substantiate the recommendation.

William M. Bennett 1-23-14
Signature of Agency Head Date

POST Council Use Only
Approved for _____ Approved by _____
Date Mailed _____

Didn't need enough time w/agency

*P. Johnson
1/23/14*

Johnson, Perry

From: Ron Price <rprice@BOZEMAN.NET>
Sent: Tuesday, June 03, 2014 5:16 PM
To: Johnson, Perry
Subject: Certification Application
Attachments: Ward Certification Appeal.pdf

Perry,

At the last POST Council they talked about the certification for Officer Jacob Ward from Columbus PD. The council suggested that I sign his application because he formally worked for Bozeman PD. Frankly, I am not comfortable with that. I have authored the attached letter in support of his application from Columbus but I will not be signing one from this agency. I gave Chief Pronovost a call and let him know the same thing. I will email a copy of this to Officer Ward and let him proceed from there. Let me know if you have any questions.

Ron Price | Chief of Police
Bozeman Police Department

615 S. 16th St.
Bozeman, MT 59715
D: 406.582.2322
C: 406.570.0410
www.BozemanPolice.com

All City of Bozeman emails are subject to the Right to Know provisions of Montana's Constitution (Art. II, Sect. 9) and may be considered a "public record" per Sect. 2-6-202 and Sect. 2-6-401, Montana Code Annotated. As such, this email, its sender and receiver, and the contents may be available for public disclosure and will be retained pursuant to the City's record retention policies. Emails that contain confidential information related to individual privacy may be protected from disclosure under law.

Bozeman Police Department



Chief Ron Price / 615 South 16th Ave. / Bozeman, MT 59715 / 406.582.2000

June 3, 2014

Perry Johnson, Executive Director
Public Safety Officer Standards and Training
2260 Sierra Road East
Helena, MT 59602-8839

Director Johnson,

Officer Jacob Ward (Post ID#) recently applied for his basic certification. It is my understanding that the certification was not awarded because he had not been with his current employer for the required period of time. The decision was heard through appeal to the POST Council and it was suggested that he resubmit under the signature of his previous employer, the Bozeman Police Department.

Officer Ward was hired by the City of Bozeman as a probationary police officer on December 26, 2012. He successfully completed the Law Enforcement Officer Basic Course and our department's Field Training Evaluation Program. Officer Ward resigned employment on December 31, 2013. His position was not confirmed by the City Commission however, he was eligible for confirmed officer status based on his performance and tenure.

I am not comfortable certifying the application for award of basic certification of any person that is not currently employed by this agency. The personnel records of this agency show that Officer Ward met the minimum standards as set forth in the Administrative Rules of Montana and that he demonstrated good moral character during his tenure with the City of Bozeman.

If you have further questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ron Price'.

Ron Price
Chief of Police

Cc: Officer Jacob Ward, Columbus Police Department

Guest Issues:
James Marble

23.13.401 INSTRUCTOR CERTIFICATION REQUIREMENTS

(1) Persons providing POST approved training courses and employed by public safety agencies must be certified by the council.

(2) A "primary instructor" is one who delivers a specific lesson plan pertaining to a discipline. To qualify as a primary instructor, the person shall apply to the council, on a form approved by the council, and shall meet the following requirements:

(a) three years of public safety experience;

(b) education or training in the specific field, subject matter, or academic discipline to be taught;

(c) must have successfully completed a 40 hour minimum instructor development course or equivalent approved by the council;

(d) must have an endorsement from the applicant's agency head to deliver a specific lesson plan pertaining to a discipline; and

(e) must submit the specific lesson plan which includes performance objectives, instructional strategies, and complete course content.

(3) Master instructors must possess the competencies to adequately develop and deliver a broad range of curricula pertaining to a specific discipline. To qualify as a master instructor, the person shall apply to the council, on a form approved by the council, and shall meet the following requirements:

(a) must possess a primary instructor certificate;

(b) must successfully complete a minimum 40 hour curriculum design and development course or equivalent approved by the council;

(c) must have an endorsement from a professional instructor and POST director, or designee attesting to the applicant's competencies; and

(d) must have endorsement from applicant's agency head.

(4) Professional instructors are certified to deliver and instruct a broad range of topic matters to which independent accreditation is not required as a condition of delivery as prescribed by the council. To qualify as a professional instructor, the person shall apply to the council on a form approved by the council, and shall meet the following requirements:

(a) must be employed by a public safety agency as a full-time training and development specialist or equivalent; and

(b) must have endorsement from the POST director or designee and agency administrator.

(5) The council will certify approved instructors to instruct in those specific subjects for which the council has found them qualified. Each certified instructor shall be listed in an official register of the council, and each subject that each instructor is certified to teach shall be noted in said register.

(6) Initial primary and master instructor certificates shall be issued for a period of 24 months. At the end of the initial time period, certificates may be renewed for an additional 24 months, providing the instructor has remained current in the applicable discipline. This may be accomplished through continuing education and by actively instructing the course(s).

(7) After four years of continuous certification, master instructors may be recertified for a four year period.

(8) The council may deny applications for instructor certification for failure to satisfy the required qualifications. The council may recall, suspend, or revoke primary and master certificates at any time for good cause to ensure the quality of the training programs. In addition, any primary and master instructor who has not instructed during a certification period shall be required to reapply for original

certification.

(9) Applications for instructor certification and renewal shall be reviewed by the council. Action on the application shall be made at the council's first regularly scheduled meeting following the review of the application.

(10) Whenever the council denies an application, renewal of certification, or recalls, suspends, or revokes an existing certification, the council will notify the applicant or holder within 15 days from the date of the council's action. Persons so notified will have 30 days from the date of receipt of notification to file with the council a written appeal of the denial or recall, suspension, or revocation. An informal hearing of the appeal will be held at the next regularly scheduled meeting of the council. During the period of the appeal, the certificate shall be suspended, and all findings and decisions will be pursuant to ARM 23.13.712.

History: 2-15-2029, MCA; IMP, 2-15-2029, MCA; NEW, 2008 MAR p. 1587, Eff. 8/1/08.



Montana Public Safety Officer Standards & Training Council

2260 Sierra Road East
Helena, MT 59602

Phone: (406) 444-9975
Fax: (406) 444-9978

PRIMARY INSTRUCTOR APPLICATION

Please print legibly.

Applicant Name _____ Agency Name _____
POST ID # _____ Date of Birth _____

1. Course(s) to be Taught

****The lesson plan for each subject to be taught must accompany this application. See Section 7.**

Original Application

Renewal Application

Instructor certificates must be renewed every two years. After two renewals or four total years of being a Certified Primary Instructor, additional instructor renewals are valid for four years.

When renewing a Primary Instructor Certificate, you must provide a list of classes taught, giving the course name, location, dates and total teaching hours. You must also submit a summary paragraph of how you have stayed current on the subjects for which you are requesting a renewed instructor's certificate.

Name of Subject _____
Name of Subject _____
Name of Subject _____

2. Education Supporting this Application

Name and Address of College	Diploma or Degree Awarded	Type of Degree Attained	Date of Award
	<input type="checkbox"/> Yes <input type="checkbox"/> No		

Attach transcript if Diploma or Degree was not awarded and transcripts have not previously been submitted to POST.

3. Applicable Work History

Three years' applicable work experience required. Begin with present employment. Use additional pages if necessary.

Employing Agency	Agency Address	Position Title	Dates Employed	
			From	To

4. Instruction Information			
	Agency Name and Address	Course Title	Hours
Currently Instructing Courses at			
Intend to Instruct Courses at			

5. Attest	
<i>I certify that the information contained in this application is true and correct to the best of my knowledge.</i>	
Signature of Applicant	Date

6. Agency Administrator Authorization	
Signature of Agency Administrator	Date

7. Lesson Plan Requirements
A copy of the lesson plan developed for each subject you are certified for must be attached when applying for or renewing certification, or when changes are made to an existing lesson plan.
Lesson plans must:
<ol style="list-style-type: none"> 1. detail a training block that is two or more hours in length 2. be written for a program that you instruct or plan to instruct 3. include: <ol style="list-style-type: none"> a) a goal statement describing the training; b) performance objectives; c) a list of all required equipment or materials; d) one or two references supporting the training; and e) the outline an instructor would use to teach from.

This section to be completed by POST Staff	
<input type="checkbox"/> Approve	<input type="checkbox"/> Disapprove
Signature of POST Director	Date



Montana Public Safety Officer Standards & Training Council
2260 Sierra Road East
Helena, MT 59602

Phone: (406) 444-9975
Fax: (406) 444-9978

www.doj.mt.gov/post

APPLICATION FOR COURSE POST CREDIT

COURSE INFORMATION

1. Course Name	
2. Course Date(s)	3. Instructor(s)
4. Location	5. hours

SPONSORING AGENCY INFORMATION

6. Agency Name			
7. Mailing Address	8. City	9. State	10. Zip Code
11. Contact Name			
12. Contact Phone	13. E-Mail		

INSTRUCTOR INFORMATION

14. Instructor Name(s)			
15. Mailing Address	16. City	17. State	18. Zip Code
19. Phone	20. E-mail		

ADDITIONAL INFORMATION REQUIRED

Attach the following information to this application:

- Instructor's qualifications and biography
- Course agenda, lesson plan, all student materials, handouts, etc.

POST Council Use Only

Approved for _____ Approved by: _____
Date Mailed: _____

Revised 06/12

Old Business: Proposed ARMs

BEFORE THE PUBLIC SAFETY OFFICERS
STANDARDS AND TRAINING COUNCIL
OF THE STATE OF MONTANA

In the matter of the adoption of New)	NOTICE OF PUBLIC HEARING ON
Rules I through XIV; the amendment)	PROPOSED ADOPTION,
of ARM 23.13.101, 23.13.201,)	AMENDMENT, TRANSFER AND
23.13.203, 23.13.204, 23.13.205,)	AMENDMENT, AND REPEAL
23.13.206, 23.13.207, 23.13.208,)	
23.13.209, 23.13.210, 23.13.211,)	
23.13.301, 23.13.304, 23.13.702,)	
23.13.703, 23.13.704, and 23.13.711;)	
the transfer and amendment of ARM)	
23.13.401, 23.13.501, 23.13.701,)	
23.13.710, and 23.13.712; and the)	
repeal of ARM 23.13.202 pertaining)	
to the certification of public safety)	
officers)	

TO: All Concerned Persons

1. On September 5, 2014, at 10:00 a.m., the Public Safety Officers Standards and Training (POST) Council will hold a public hearing in Room 121 of the Karl Ohs Building, Montana Law Enforcement Academy, 2260 Sierra Road East, Helena, Montana, to consider the proposed adoption, amendment, transfer and amendment, and repeal of the above-stated rules.

2. The POST Council will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the POST Council no later than 5:00 p.m. on August 29, 2014, to advise us of the nature of the accommodation that you need. Please contact Katrina Bolger, POST Council, 2260 Sierra Road East, Helena, Montana, 59602; telephone (406) 444-9974; or e-mail kbolger@mt.gov.

3. The new rules as proposed to be adopted provide as follows:

NEW RULE I EMPLOYMENT AND TRAINING OF RESERVE OFFICERS

(1) An agency that appoints a reserve officer pursuant to 7-32-213, MCA, must submit a completed employment status form to the director within ten days of appointing the reserve officer.

(2) The employing agency is responsible for training the reserve officer. The reserve officer must complete training as prescribed in this rule within two years of the reserve officer's initial appointment

(3) Training must, at a minimum, consist of the courses and hours listed in 7-32-214(1), MCA.

AUTH: 2-15-2029(2), MCA
IMP: 7-32-214, 44-4-401(2)(e), 44-4-403(1), MCA

REASON: The POST Council has responsibility for establishing employment and training requirements for "public safety officers," a term that includes reserve officers. This rule is reasonably necessary to let employing agencies know that they are responsible for training reserve officers they employ and what criteria fulfill the minimum training requirements. This proposed rule fulfills POST's responsibilities with respect to the employment and training of reserve officers, and implements POST Resolution 08-002, adopted August 21, 2008, which adopted these standards. The resolution can be found on the POST Council's web site at the following link: <https://doj.mt.gov/post/post-resolutions/>.

NEW RULE II FIREARMS PROFICIENCY STANDARDS (1) Each agency that employs a public safety officer who is authorized to carry firearms during the work assignment must:

(a) require the officer to complete successfully the firearms proficiency requirements provided in this rule at least once a year, for any manufacture and model of firearm customarily carried by that officer;

(b) designate a POST-certified agency firearms instructor to document annual firearms proficiency, which must include:

- (i) date of qualification;
- (ii) identification of the officer;
- (iii) firearm manufacture and model;
- (iv) results of qualifying; and
- (v) course of fire used.

(c) keep on file in a format readily accessible to the council a copy of all firearms proficiency records.

(2) The minimum standards for annual firearms proficiency are:

(a) Handgun – a minimum of 30 rounds, fired at ranges from point-blank to 15 yards with a minimum of 15 rounds at or beyond seven yards;

(b) Shotgun – minimum of five rounds fired at a distance ranging from point-blank to 25 yards;

(c) Precision rifle – a minimum of ten rounds fired at a minimum range of 100 yards;

(d) Patrol rifle – a minimum of 20 rounds fired at a distance ranging from point-blank to 100 yards;

(e) Fully automatic weapon – a minimum of 30 rounds fired at a distance ranging from point-blank to ten yards, with a minimum of 25 rounds fired in full automatic (short bursts of two or three rounds), and a minimum of five rounds fired semi-automatic.

(3) The minimum passing score for annual firearms proficiency is 80% for each firearm on an IPSC Official Target or dimensional equivalent.

(4) The MLEA sets the passing score for the Montana Law Enforcement Basic Firearms Qualification.

AUTH: 2-15-2029(2), MCA

IMP: 7-32-303(2), 44-4-403(1), MCA

REASON: The council has statutory authority to establish training standards for public safety officers. This rule is reasonably necessary to set minimum proficiency standards for firearms and to require documentation for each officer's proficiency that must be available to POST. Firearms proficiency is an important element of officer training, promoting both efficiency in the enforcement of the law and safety for the public. This rule implements resolution 10-003, adopted April 15, 2010, which adopted similar standards. The resolution can be found on the POST Council's web site at the following link: <https://doj.mt.gov/post/post-resolutions/>. An administrative rule is required to make the policy enforceable.

NEW RULE III RECORD OF ALL POST COUNCIL MEETINGS (1) As required by Title 2, chapter 6, MCA, POST will maintain records of all meetings and make those records available for public inspection. The record consists of an audio recording and minutes of the proceedings. The audio recording is the official record of POST meetings.

AUTH: 2-15-2029(2), MCA
IMP: 2-3-212, 44-4-403(1), MCA

REASON: This rule is reasonably necessary to implement the requirements for keeping public records of POST's meetings. POST finds that audio recordings are the best method for maintaining records of meetings because recordings are relatively inexpensive, accurate, can be easily copied and shared for public inspection, and are well-suited for long-term storage.

NEW RULE IV FORMAL MAPA CONTESTED CASE PROCEEDINGS (1) A contested case involves a determination by POST that affects the rights or responsibilities of the respondent.

(2) Contested case proceedings may be commenced only after the requirements of ARM 23.13.704 have been met and an officer has requested a hearing.

(3) Formal proceedings for suspension or revocation are subject to MAPA, in addition to, where applicable, the Montana Rules of Civil Procedure, the Montana Uniform District Court Rules, the Montana Rules of Evidence, the Montana Rules of Professional Conduct, the Montana Code of Judicial Conduct, and these rules.

(4) A respondent's failure to respond, appear, or otherwise defend a notice of agency action of which the respondent has had notice, may result in the hearing examiner finding the officer in default and entering an order against the officer containing findings of fact, conclusions of law, and an opinion in accordance with MAPA, Montana Rules of Civil Procedure, and any other rule of law applicable.

(5) A party may be self-represented, or may, at the party's own expense, be represented by an attorney licensed to practice law in the state of Montana.

(6) Contested case counsel for POST will represent POST during the proceedings.

AUTH: 2-15-2029(2), 2-4-201, MCA
IMP: 2-4-201; Title 2, chapter 4, part 6; 44-4-403(3), MCA

REASON: See Reason following proposed New Rule XII.

NEW RULE V ADOPTION OF ATTORNEY GENERAL'S MODEL RULES

(1) The POST Council adopts and incorporates by reference the Attorney General Model Rules ARM 1.3.216, 1.3.226, 1.3.227, 1.3.228, 1.3.229, 1.3.230, and 1.3.232 in effect. The model rules incorporated by reference can be found on the Secretary of State's web site at <http://sos.mt.gov/>. In applying the model rules, references to "the agency" should be interpreted to refer to "the POST Council."

AUTH: 2-4-201, 2-15-2029(2), MCA
IMP: 2-4-201, 2-4-202, Title 2, chapter 4, part 6, 44-4-403(3), MCA

REASON: See Reason following proposed New Rule XII.

NEW RULE VI CONTESTED CASES, DISCOVERY (1) In all contested cases, discovery is available to the parties in accordance with Rules 26 through 37 of the Montana Rules of Civil Procedure. All references to "court" will be considered references to the hearing examiner or POST Council; all references to subpoena power will be considered references to ARM 1.3.230; all references to "trial" will be considered references to "hearing"; all references to "plaintiff" will be considered references to "a party"; all references to "clerk of court" will be considered references to the hearing examiner.

(2) If a party or other witness refuses to be sworn or refuses to answer any question after being directed to do so by the hearing examiner, the adversely affected party may seek enforcement in district court under 2-4-701, MCA.

(3) If either party seeking discovery believes it has been prejudiced by a protective order issued by the hearing examiner under Rule 26(c), M.R.Civ.P., or, if either party refuses to make discovery, the aggrieved party may petition the district court for review of the hearing examiner's action under 2-4-701, MCA.

(4) Severe failures of discovery may also be sanctioned pursuant to M.R.Civ.P. 37 and the case law interpreting it. Sanctions under this subsection may be enforced by or appealed to district court pursuant to 2-4-701, MCA.

AUTH: 2-4-201, 2-15-2029(2), MCA
IMP: 2-4-104, 2-4-602, 44-4-403, MCA

REASON: See Reason following proposed New Rule XII.

NEW RULE VII CONTESTED CASES – HEARING EXAMINERS (1) The POST Council chair or the director may appoint a hearing examiner to conduct a hearing in a contested case, as allowed by 2-4-611, MCA.

(2) A hearing examiner appointed under 2-4-611, MCA and this rule may:

- (a) administer oaths or affirmations;
- (b) issue subpoenas;

- (c) provide for the taking of testimony and depositions;
 - (d) set the time and place for hearing;
 - (e) set motion and briefing schedules that comport with the Montana Rules of Civil Procedure and the Montana Uniform District Court Rules for filing, service, deadlines, and time calculation;
 - (f) by mutual consent of the parties, hold conferences to consider narrowing or simplifying the issues;
 - (g) rule on summary judgment motions, motions in limine, and other motions and, if motions are dispositive, make recommendations to the POST Council as if a hearing on the merits had occurred;
 - (h) allow, disallow, or limit expert testimony;
 - (i) recommend to the council dismissal of the case based on M.R.Civ.P. 41, default, or other reason;
 - (j) provide for and conduct the MAPA contested case process as a matter of discretion, within the bounds of the applicable law.
- (3) If a hearing examiner is appointed in a contested case proceeding, notice must be provided to the public safety officer with the notice of agency action or immediately after the officer requests a hearing pursuant to 44-4-403, MCA.
- (4) Pursuant to 2-4-611(4), MCA, the POST Council may disqualify a hearing examiner if a party shows by affidavit the existence of personal bias, lack of independence, disqualification by law, or other ground for disqualification.
- (5) If a hearing examiner recuses himself or herself for good cause, the director or POST Council may appoint a replacement.
- (6) For guidance on the POST Council's past actions on cases and penalties imposed, a hearing examiner may inspect POST's integrity report, available on POST's web site or from POST staff, and may examine any POST file not containing privileged, ex parte, or other protected or constitutionally private material.

AUTH: 2-4-201, 2-15-2029(2), MCA

IMP: 2-4-201, 2-4-202, 2-4-611, 2-4-612, 44-4-403(3), MCA

REASON: See Reason following Proposed New Rule XII.

NEW RULE VIII CONTESTED CASE HEARING (1) The contested case hearing will be conducted before the POST Council or a hearing examiner, at the council's discretion.

(2) The director will set the venue for the hearing.

(3) At the contested case hearing, the respondent has the burden of proving by a preponderance of the evidence that there was no basis for the sanction, suspension, or revocation of certification imposed by the director, as stated in the notice of agency action.

(4) The director may be represented by contested case counsel during the contested case process.

(5) The hearing examiner must ensure that the respondent and counsel for POST are afforded the opportunity to respond and present evidence and argument on all issues involved.

(6) Absent a determination by the hearing examiner that the interests of justice require otherwise, the order of hearing is as follows:

- (a) opening statements by both parties;
- (b) presentation of evidence by the respondent;
- (c) cross examination by POST;
- (d) presentation of evidence by POST;
- (e) cross examination by the respondent; and
- (f) rebuttal testimony.

(7) All testimony must be given under oath or affirmation.

(8) Exhibits must be marked and must identify the party offering the exhibits.

The exhibits will be preserved by the hearing examiner and then by POST as part of the record of the proceedings.

(9) The hearing examiner may hear closing arguments, request written argument, order a schedule for parties to submit a prehearing memorandum, a final prehearing order, proposed findings of fact and conclusions of law, or any other writings that might assist the hearing examiner.

(10) The hearing examiner may grant recesses or continue the hearing.

AUTH: 2-4-201, 2-15-2029(2), MCA

IMP: 2-4-201, 2-4-202, 2-4-611, 2-4-612, 44-4-403, MCA

REASON: See Reason for proposed New Rule XII.

NEW RULE IX CONTESTED CASES, EVIDENCE (1) All evidence introduced in a contested case hearing will be received and evaluated in conformance with common law and statutory rules of evidence, including the Montana Rules of Evidence.

AUTH: 2-4-201, 2-15-2029(2), MCA

IMP: 2-4-611, 2-4-612, 44-4-403, MCA

REASON: See Reason following proposed New Rule XII.

NEW RULE X CONTESTED CASES, EX PARTE COMMUNICATIONS

(1) Pursuant to 2-4-613, MCA, ex parte communication by a party or a party's agent with the hearing examiner, the council, any individual member of the council, or any person authorized to participate in the decision of the contested case, is expressly prohibited unless otherwise authorized by law.

(2) An unauthorized ex parte communication may be treated as a default and may constitute a waiver of the party's rights to proceed.

(3) If an ex parte contact occurs, the person receiving the communication must state on the record the nature and content of the communication and a summary of its contents. The presiding officer or hearing examiner may, in the exercise of discretion, make any order that is appropriate.

AUTH: 2-4-201, 2-15-2029(2), MCA

IMP: 2-4-201, 2-4-202, 2-4-613, 44-4-403, MCA

REASON: See Reason following proposed New Rule XII.

NEW RULE XI CONTESTED CASES, EMERGENCY SUSPENSION OF A LICENSE (1) Pursuant to 2-4-631(3), MCA, if the director or the council determines that public health, safety, or welfare requires emergency action, the director or council may immediately suspend a certification. The order must include findings justifying emergency action, and regular proceedings must be promptly initiated.

AUTH: 2-4-201, 2-15-2029(2), MCA
IMP: 2-4-631(3), 44-4-403, MCA

REASON: See Reason for proposed New Rule XII.

NEW RULE XII CONTESTED CASES, SETTLEMENT OR STIPULATION AND PROCESS FOR REVIEW BY THE POST COUNCIL (1) If, in the course of the MAPA contested case proceeding, the parties reach a stipulated agreement or settlement, the parties must:

- (a) put the agreement into writing, signed by the respondent or the respondent's legal representative and the director;
- (b) present the agreement to the POST Council for acceptance or rejection:
 - (i) if the council accepts the agreement by motion, then the agreement becomes the POST Council's final agency action;
 - (ii) if the council rejects the agreement, then the parties must provide the hearing examiner an excerpt of the official record of the POST meeting in which the council rejected the agreement. The contested case proceeds as though there had been no agreement.
- (2) By signing a stipulation or settlement agreement, all parties:
 - (a) indicate their understanding that all agreements reached during the contested case process are subject to the POST Council's approval and are not binding until the council has approved the agreement by seconded motion;
 - (b) waive their rights or privileges to raise any argument, objection, complaint, or attempt to disqualify or remove any POST Council member or hearing examiner based on that individual's having heard, discussed, or ruled on the agreement. By submitting an agreement to the hearing examiner and the council, all parties agree not to attempt to disqualify that hearing examiner or any member of the POST Council who considers the agreement or prevent them from ultimately hearing the case on the merits if the agreement is rejected.

AUTH: 2-4-201, 2-15-2029(2), MCA
IMP: 44-4-403, MCA

REASON: NEW RULES IV through XII are reasonably necessary to set forth the procedural rules that govern POST contested case proceedings and to clarify the roles of the parties, the hearing examiner, POST, and others. Based on past experience, the absence of administrative rules governing POST contested cases has resulted in confusion regarding how proceedings are initiated, what rules apply

(MAPA, rules of evidence, Attorney General model rules, etc.), what authority a hearing examiner possesses, what authority POST continues to exercise during a contested case, and other matters. These new rules attempt to address this confusion. These rules are necessary to establish that POST contested cases are formal matters that, procedurally, closely parallel state district court proceedings. Similarly, incorporation of evidentiary rules and discovery rules serve to further clarify the process for fact-finding within the case proceeding. These rules attempt to provide parties a fair process for resolving disputes and, at the same time, eliminate the uncertainty and unnecessary disputes over process that occurred in the past.

NEW RULE XIII NOTICE TO THE PUBLIC OF POST COUNCIL ACTIONS OF SIGNIFICANT INTEREST TO THE PUBLIC (1) In accordance with 2-3-102 through 2-3-114, MCA, prior to making a final decision that is of significant interest to the public, POST will afford reasonable opportunity for public participation.

Reasonable opportunity for public participation may be afforded by:

(a) any of the agency actions allowed pursuant to 2-3-104, MCA; or
(b) a notice of the proposed agency action published in the register in accordance with template 102a (www.armtemplates.com). POST may grant or deny an opportunity for hearing, except a hearing is required if the proposed action is the adoption of rules in an area of significant interest to the public.

(2) For purposes of (1)(b) only, significant interest to the public is defined at 2-4-102, MCA, as matters an agency knows to be of widespread citizen interest.

(3) Public comment on any public matter within the jurisdiction of POST must be allowed at any public meeting under 2-3-103(1)(b), 2-3-202, and 2-3-203, MCA, defining "public matter" and "meeting" and stating the requirements applicable to opening and closing meetings to the public. The opportunity for public comment must be reflected on the meeting agenda and incorporated into the official minutes of the meeting. For purposes of this rule and 2-3-103(1)(b), MCA, contested case is defined at 2-4-102(4), MCA.

AUTH: 2-4-201, 2-15-2029(2), MCA

IMP: 2-3-103, 2-3-104, 2-3-203, 44-4-403, MCA

REASON: Section 2-3-103, MCA, requires each agency to adopt by rule procedures "for permitting and encouraging the public to participate." This proposed rule adopts Attorney General Model Rule ARM 1.3.102, with minor grammatical changes.

NEW RULE XIV PUBLIC SAFETY OFFICER EMPLOYMENT, EDUCATION, AND CERTIFICATION STANDARDS (1) Except as provided in (2), the standards for employment, education, and certification set forth in 7-32-303(5)(a), (b), and (c), MCA, are applicable to all public safety officers, where an appropriate basic course or basic equivalency course exists in the public safety officer's field.

(2) The standards set forth in (1) do not apply to reserve officers.

(3) The notification requirements set forth in 7-32-303(4), MCA apply to all public safety officers.

AUTH: 2-15-2029(2), MCA
IMP: 7-32-303, 44-4-403(1), MCA

REASON: The council proposes to adopt this new rule to add needed clarity for readers as to the source of requirements for education and training for public safety officers and the obligation by employing agencies to notify the POST Council in case of a change in status of a public safety officer. Section 7-32-303(5), MCA, states the circumstances under which an experienced peace officer can achieve certification through equivalency. POST believes this opportunity should be extended to public safety officers, with the exception of reserve officers, and this rule accomplishes this goal. This rule also extends the requirement in 7-32-303(4), MCA that an employing agency notify POST within ten days after hiring a peace officer to all public safety officers. Section 7-32-303(4), MCA currently requires ten-day notice for hiring and termination of peace officers. This requirement allows POST to keep track of officers who are terminated for poor conduct or misconduct, and helps prevent these officers from obtaining employment with another Montana agency. The proposed rule extends this protection to all public safety officers. It also allows POST to track continuous employment by officers for purposes of implementing 7-32-303(5), MCA. Because POST and employing agencies currently use the ten-day notification process for peace officers, adopting this requirement is a convenient method that allows POST to be informed of the employing agencies with public safety officers.

4. The rules as proposed to be amended provide as follows, new material underlined and deleted material interlined:

23.13.101 ORGANIZATION AND GENERAL PROVISIONS, PUBLIC INSPECTION OF ORDERS AND DECISIONS ~~(1) The Montana Public Safety Officer Standards and Training Council (council), as created by 2-15-2029, MCA, is a quasi-judicial council allocated to the Department of Justice for administrative purposes only.~~

~~(2) The council membership is defined in 44-4-402, MCA.~~

~~(3) As used in ARM 23.13.101 through 23.13.712, the definitions set forth in 44-4-401, MCA, apply.~~

(1) The organization and function of the Public Safety Officers Standards and Training Council ("POST" or "POST Council") are described in ARM 23.1.101(1)(d), (2)(k), and (4).

(2) POST will maintain an index of all final orders and decisions in contested cases and declaratory rulings. All final decisions and orders must be available for public inspection on request. Copies of final decisions and orders must be given to the public on request after payment of the cost of duplication.

AUTH: 2-15-2029, MCA
IMP: 2-4-201(1), 2-4-623(6), 2-15-2029, MCA

REASON: A description of the agency's organization and purpose is required by 2-4-201, MCA. Section (1) shortens the existing rule and eliminates unnecessary duplication. An index of agency decisions is required by 2-4-623(6), MCA. Section

(2) is necessary to address this requirement, and follows the provisions of Model Rule ARM 1.3.233. Prior to this amendment, POST did not have a rule addressing the requirements of 2-4-623(6), MCA, which requires each agency to index decisions in contested cases and make the decisions available to the public. This proposed amendment fills that gap in POST's rules and brings the rules into compliance with statute.

23.13.201 MINIMUM STANDARDS FOR THE APPOINTMENT AND CONTINUED EMPLOYMENT OF PUBLIC SAFETY OFFICERS (1) ~~Public~~ All public safety officers must be certified by POST and meet the applicable employment, education, and certification standards as prescribed by the Montana Code Annotated.

(2) In addition to standards set forth in the Montana Code Annotated, including but not limited to 44-4-404, MCA, as defined in 44-4-401, MCA, all public safety officers ~~shall~~ must:

- (a) be a citizen of the United States or may be a registered alien if unsworn;
- (b) be at least 18 years of age;
- (c) be fingerprinted and a search made of the local, state, and national fingerprint files to disclose any criminal record;
- (d) not have been convicted of a crime for which they could have been imprisoned in a federal or state penitentiary;
- (e) be a high school graduate or have ~~passed the general education development test and have been issued an equivalency certificate by the Superintendent of Public Instruction, or by an appropriate issuing agency of another state or of the federal government;~~
- (f) successfully complete an oral interview and pass a thorough background check conducted by the appointing authority or its designated representative; ~~and~~
- (g) be in good standing with any other licensing or certification boards or committees equivalent to POST in any other state such that no license or certification similar to a POST certification has been revoked or is currently suspended in any other state;
- ~~(g)~~ (h) possess a valid driver's license if driving a vehicle will be part of the officer's duties;
- (i) take an oath containing the code of ethics and abide by the code of ethics contained in ARM 23.13.203; and
- (j) complete, within every two calendar years, 20 hours of documented agency in-service, roll call, field training, or POST-approved continuing education training credits, which include but are not limited to a professional ethics curriculum covering the following topics and any additional topics required by the council:
 - (i) a review of the Code of Ethics ARM 23.13.203 and Grounds for Sanction, Suspension, and Revocation ARM 23.13.702;
 - (ii) review of the annual POST integrity report;
 - (iii) discussion involving core values of each employing agency which may include integrity, honesty, empathy, sympathy, bravery, justice, hard work, kindness, compassion, and critical thinking skills;
 - (iv) review of agency policy and procedure regarding ethical and moral codes of conduct;

(v) discussion of the similarities and differences between agency and POST consequences for actions that violate policy or rule.

(3) The POST Council is not responsible for maintaining records of continuing education hours acquired to satisfy the requirements of (2)(i) and (2)(j). The employing agency must maintain records of the administration of the oath and the continuing education hours acquired to satisfy (2)(i) and (2)(j). Agency records maintained under this rule are subject to audit by the executive director during normal business hours upon reasonable notice to the agency.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403(1)(a), MCA

REASON: The POST Council has adopted a policy, POST Resolution 11-001, requiring in-service training for certified public safety officers. The resolution can be found on the POST Council's web site at the following link: <https://doj.mt.gov/post/post-resolutions/>. This amendment implements that policy as rule, making it enforceable through a disciplinary action. However, based on past experience, the council believed that the number of in-service hours should be reduced from 40 hours to 20 hours, and this amendment reflects that judgment. The change to (2)(e) is necessary because the Office of the Superintendent of Public Instruction no longer recognizes the GED test. New (2)(g) requires an officer to remain in good standing with all agencies of other states that have certified or licensed the officer. This amendment prevents an officer from losing certification in another state and then being certified in Montana. New (2)(i) clarifies the existing rule that the code of ethics applies to officers who were certified before the code was originally adopted as rule in 2008. This change is needed to prevent a double standard and to clarify that ethics do not vary based on an officer's hire date; an officer who deviates from the code of ethics has violated the ethics code regardless of when the offending officer was hired. New (2)(j) clarifies that the in-service training must include specified ethics topics.

New (3) is necessary to remove any confusion over which agency must maintain records, and it clarifies that the employing agency is responsible for maintaining records of the administration of the oath containing the code of ethics and the completion of in-service training required by (2)(i) and (2)(j). The amendments also make minor changes in grammar for clarity.

23.13.203 CODE OF ETHICS ~~(4) Regulations governing certification of public safety officers requires that a code of ethics shall be administered as an oath.~~

(1) All public safety officers who have been hired or employed by any agency or entity in Montana, or who have been certified by POST, or who have attended an MLEA basic class must be administered an oath regarding the code of ethics contained herein.

(2) The procedure for administration of the code of ethics is as follows:

(a) ~~each applicant for certification officer will attest to this code of ethics and the oath shall be administered by the head of the public safety agency for which they~~

serve officer's employing authority, or by the Montana Law Enforcement Academy (academy) MLEA administrator or designee, or by the POST director or POST staff;

(b) the applicant officer and the administrator individual administering the oath will sign two copies of the public safety code of ethics; and

(c) at least one copy will be retained by the applicant officer or the officer's employing authority and the other copy will be retained in the applicant's academy student file, which will be made available for inspection by the council POST staff at any reasonable time.

(3) All public safety officers hired or sworn before this rule's effective date are also bound by the code of ethics contained in this rule, even if it was not previously administered to them as an oath. Continued employment as a public safety officer in Montana constitutes an agreement to be bound by this code of ethics. Failure to comply with or violation of any part of the code of ethics may be grounds for suspension, sanction, or revocation of any POST certificate.

~~(3)~~ (4) The oath of the public safety officers' code of ethics is:

(a) "My fundamental responsibility as a public safety officer is to serve the community, safeguard lives and property, protect the innocent, keep the peace, and ensure the constitutional rights of all are not abridged-;

(b) "I shall will perform all duties impartially, without favor or ill will and without regard to status, sex, race, religion, creed, political belief or aspiration. I will treat all citizens equally and with courtesy, consideration, and dignity. I will never allow personal feelings, animosities, or friendships to influence my official conduct-;

(c) "I will enforce or apply all laws and regulations appropriately, courteously, and responsibly-;

(d) "I will never employ unnecessary force or violence, and will use only such force in the discharge of my duties as is objectively reasonable in all circumstances. I will refrain from applying unnecessary infliction of pain or suffering and will never engage in cruel, degrading, or inhuman treatment of any person-;

(e) "Whatever I see, hear, or learn, which is of a confidential nature, I will keep in confidence unless the performance of duty or legal provision requires otherwise-;

(f) "I will not engage in nor will I condone any acts of corruption, bribery, or criminal activity; and shall will disclose to the appropriate authorities all such acts. I will refuse to accept any gifts, favors, gratuities, or promises that could be interpreted as favor or cause me to refrain from performing my official duties-;

(g) "I will strive to work in unison with all legally authorized agencies and their representatives in the pursuit of justice-;

(h) "I will be responsible for my professional development and will take reasonable opportunities steps to improve my level of knowledge and competence-;

(i) "I will at all times ensure that my character and conduct is admirable and will not bring discredit to my community, my agency, or my chosen profession."

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 7-32-303(2), 44-4-403(1)(a), MCA

REASON: The proposed amendment is necessary to clarify that the code of ethics applies to all officers, regardless of when they were hired or certified. This

amendment also makes minor changes in procedure to promote efficiency and in language and format to promote clarity.

23.13.204 PURPOSE OF CERTIFICATES (1) Certificates are awarded by the council for the purpose of raising the level of professionalism and skill of public safety officers and to foster cooperation among the council, agencies, groups, organizations, jurisdictions, and individuals.

(2) Basic, intermediate, advanced, supervisory, command, administrative, and other certificates are established for the purpose of promoting ethical behavior, professionalism, education, and experience necessary to perform the duties of a public safety officer.

(3) Certificates remain the property of the council. The council ~~shall have~~ has the power to recall, sanction, suspend, or revoke any or all certificates upon good cause based on a preponderance of the evidence as determined by the council.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 7-32-303(7), 44-4-403(1)(a), MCA

REASON: The proposed amendments are necessary to clarify the broad purposes served by POST Council certificates and the standard of proof for sanctions. POST finds that adding a standard of proof is necessary to promote fairness to the officers the POST Council has certified.

23.13.205 GENERAL REQUIREMENTS FOR CERTIFICATION (1) To be eligible for the award of a certificate, each officer must be a full-time or part-time public safety officer employed by a federal agency, state, tribal entity, county, municipality, city, or town, as defined by 44-4-401, MCA, at the time the application for certification is received by the council.

(2) Public safety officers ~~shall~~ must complete the required basic training as set by the council.

(3) All public safety officers must ~~shall attest that they~~ subscribe to the code of ethics as prescribed in ARM 23.13.203. Acceptance of POST certification is an agreement to abide by and adopt the code of ethics and refrain from the behaviors outlined in ARM 23.13.702.

(4) Prior to issuance of any certificate, the public safety officer ~~shall~~ must have completed the designated combinations of education, training, and experience as computed by the credit hour system established ~~annually~~ by the council.

(5) To maintain certification the officer must:

(a) abide by all laws and rules of Montana, including those set forth herein;

(b) maintain ethical conduct by upholding and abiding by the code of ethics set forth in ARM 23.13.203 and refrain from engaging in any behavior that constitutes a ground for sanction, suspension, or revocation under ARM 23.13.702;

(c) maintain the continuing education and training requirements set forth by the council and ARM 23.13.201(2)(j).

(5) (6) Training hour guidelines are as follows:

(a) no training hours for the basic courses or legal equivalency courses may be applied to any other certificate; and

(b) acceptability of training hours claimed for training received from noncriminal justice sponsored agencies shall will be determined by the council, and requires notice of application for credit.

(7) In calculating the training hours for an intermediate, advanced, or supervisory certificate, no more than 25% of the required training hours will be allowed from any college or military training credits and no more than 15% will be allowed from in-service training.

(a) The POST Council is not responsible for maintaining records of in-service training hours acquired to satisfy the requirements of this rule. The employing agency must maintain records of in-service training hours acquired to satisfy this rule and provide those records with the application for intermediate or advanced certificates.

(8) In calculating the training hours for an intermediate, advanced, or supervisory certificate, military training will be accepted hour for hour only with a written explanation of how the training relates to civilian law enforcement and other supporting documents requested by the director.

(9) In calculating the training hours for an intermediate, advanced, or supervisory certificate, college education will be credited for individual class work only. Credit will be given using the formula of ten hours for one semester credit hour and six hours for one quarter credit hour, and must be accompanied by a written explanation of how the higher education course relates to public safety officer work and supporting documents including a transcript.

~~(6)~~ (10) Applicable discipline-specific experience in any public safety agency will be considered by the council when determining the minimum standards for certification of each discipline.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403(1)(a), MCA

REASON: Amendments to (1) through (5) are necessary to clarify that the code of ethics applies to all officers, regardless of hire date. The amendments in (6) make minor changes in wording for clarity. The proposed amendments in (7) through (10) set out the manner in which the council accounts for training hours for purposes of certification. These amendments implement Resolution 08-001, adopted August 21, 2008, and Resolution 10-001, adopted February 14, 2011. The resolutions can be found on the POST Council's web site at the following link:

<https://doj.mt.gov/post/post-resolutions/>. The resolutions are reasonably necessary to provide criteria for local agencies and notice to officers of how POST calculates training hours. The new rule language is needed to make those policies enforceable.

23.13.206 REQUIREMENTS FOR THE BASIC CERTIFICATE (1) In addition to ARM 23.13.204 and 23.13.205, the following are required for the award of the basic certificate:

(a) Public safety officers hired after the effective date of this regulation shall must have completed:

(i) the probationary period prescribed by law or by the current employing agency, but in any case have a minimum of one year discipline-specific employment experience with the current employing agency; and

(ii) the basic course or the equivalency as defined by the council; and

~~(iii) application for the basic certificate.~~

(b) Public safety officers hired before the effective date of this regulation shall must have:

(i) completed the probationary period prescribed by the employing agency, and ~~shall have~~ served a minimum of one year with the present employing agency;

(ii) completed the basic course at the ~~academy~~ MLEA, or an equivalency as defined by the council; or

(iii) remains the same.

(c) Public safety officers with out-of-state ~~experience and training~~ or who have been formerly employed by a designated federal agency, state, tribal entity, county, municipality, city, or town who do not have basic certification and are employed by a Montana law enforcement and/or public safety agency:

(i) ~~shall~~ must have completed the probationary period prescribed by law, but in any case have a minimum of one year experience with the present employing agency;

(ii) whose training ~~and~~ or service time is determined by the council as equivalent to the basic course must successfully complete an equivalency program, approved by the council and administered by the ~~academy~~ MLEA. The council will require those who fail an equivalency program to successfully complete the basic course at the academy; and

(iii) whose training ~~and~~ or service time is determined by the council as not equivalent to the basic course must, within one year of initial appointment, successfully complete the basic course; and

~~(iv) shall have been employed as a public safety officer for a minimum of one year within the last five years prior to employment in Montana.~~

(d) remains the same.

(e) The council may grant a one-time extension to the one year time requirement for public safety officers upon the written application of the public safety officer and the appointing authority of the officer. The application must explain the circumstances that make the extension necessary. The council may not grant an extension to exceed 180 days. Factors that the council may consider in granting or denying the extension include but are not limited to:

(i) through (g) remain the same.

(2) An officer meeting the qualifications outlined above will be issued a basic POST certificate. POST will consider the completion of the above requirements to constitute the officer's application for a POST basic certificate. However, if an officer wishes to fill out an application form, then POST will also consider that application.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403(1)(a), MCA

REASON: This amendment clarifies that POST considers an officer's completion of the training and experience requirements an implied request for a certificate, and POST will issue a certificate once the requirements are satisfied. This amendment is reasonably necessary to address past abuses from officers who exploited a loophole in the rules to attempt to avoid disciplinary action. For example, prior to this amendment, an officer could avoid a POST certificate simply by not applying for a certificate. Then, if the officer engaged in conduct that could result in disciplinary action, the officer could argue that POST had no authority because the officer had no certificate to suspend or revoke. This amendment forecloses this tactic. Additionally, this amendment is necessary to clarify the probationary period for a basic certificate, makes the rule consistent with 7-32-303(5)(c), MCA, and makes minor grammatical changes for clarity.

23.13.207 REQUIREMENTS FOR THE PUBLIC SAFETY OFFICER INTERMEDIATE CERTIFICATE (1) In addition to ARM 23.13.204 and 23.13.205, the applicant for an award of the public safety officer intermediate certificate:

(a) must have served at least one year with the present employing agency and is satisfactorily performing the duties as attested to by the head of the employing law enforcement and/or public safety agency;

(b) ~~shall~~ must possess the discipline-specific basic certificate; and

(c) ~~shall~~ must have four years discipline-specific experience and 200 job-related POST-approved training hours.

(2) Officers who believe they are eligible for an intermediate certificate must submit a completed application, with agency administrator approval, to the director. Applications are available from POST staff or on the POST web site.

(a) The director will review the application and approve or deny the certification, unless the director determines as a matter of discretion that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director, the certificate becomes valid unless the council takes further action.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403(1)(a), MCA

REASON: This amendment is reasonably necessary to inform officers who seek this certificate of the procedural requirements. The present rule says nothing about the process for securing the award of an intermediate certificate, and POST finds that setting out the process in an administrative rule promotes transparency and makes the process fairer for officers who seek this certificate. In addition to clarifying the process, this amendment also clarifies that the experience and basic certificate of the officer seeking intermediate certificate must be "discipline-specific," i.e., must be in the same discipline for which the intermediate certificate is sought.

23.13.208 REQUIREMENTS FOR PUBLIC SAFETY OFFICER ADVANCED CERTIFICATE (1) In addition to ARM 23.13.204 and 23.13.205, the applicant for an award of the advanced certificate:

(a) ~~shall~~ must possess the discipline-specific intermediate certificate; and

(b) ~~shall~~ must have eight years' discipline-specific experience and 400 job-related POST-approved training hours.

(2) Officers who believe they are eligible for an advanced certificate must submit a completed application, with agency administrator approval, to the director. Applications are available from POST staff or on the POST web site.

(a) The director will review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director the certificate becomes valid unless the council takes further action.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403(1)(a), MCA

REASON: This amendment is reasonably necessary to inform officers who seek this certificate of the procedural requirements. The present rule says nothing about the process for securing the award of an advanced certificate, and POST finds that setting out the process in an administrative rule promotes transparency and makes the process fairer for officers who seek this certificate. In addition to clarifying the process, this amendment also clarifies that the experience and intermediate certificate of the officer seeking advanced certificate must be "discipline-specific," i.e., must be in the same discipline for which the advanced certificate is sought.

23.13.209 REQUIREMENTS FOR PUBLIC SAFETY OFFICER SUPERVISORY CERTIFICATE (1) In addition to ARM 23.13.204 and 23.13.205, the applicant for an award of the supervisory certificate:

(a) ~~shall~~ must possess the discipline-specific intermediate certificate;

(b) ~~shall~~ must have successfully completed a 40 32-hour POST-approved management course; and

(c) ~~shall~~ must have served satisfactorily as a first-level supervisor currently and for one year prior to the date of application, as attested to by the head of the employing agency.

(2) A first-level supervisor is a position above the operational level for which commensurate pay is authorized, is occupied by an officer who, in the upward chain of command, principally is responsible for the direct supervision of employees of an agency or is subject to assignment of such responsibilities, ~~and most commonly is the rank of sergeant.~~

(3) Officers who believe they are eligible for a supervisory certificate must submit a completed application, with agency administrator approval, to the director. Applications are available from POST staff or on the POST web site.

(a) The director will then review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director the certificate becomes valid unless the council takes further action.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403(1)(a), MCA

REASON: This amendment is reasonably necessary to inform officers who seek this certificate of the procedural requirements. The present rule says nothing about the process for securing the award of a supervisory certificate, and POST finds that setting out the process in an administrative rule promotes transparency and makes the process fairer for officers who seek this certificate. In addition to clarifying the process, this amendment also clarifies that the experience and intermediate certificate of the officer seeking supervisory certificate must be "discipline-specific," i.e., must be in the same discipline for which the supervisory certificate is sought. Additionally, to avoid confusion, this amendment removes the reference to "commonly affected rank" because this language could be read as a limitation, which was not the intention.

23.13.210 REQUIREMENTS FOR PUBLIC SAFETY OFFICER COMMAND CERTIFICATE (1) In addition to ARM 23.13.204 and 23.13.205, the applicant for an award of the command certificate:

- (a) ~~shall~~ must possess the discipline-specific supervisory certificate;
- (b) ~~shall~~ must have completed a professional development course or courses cumulating a minimum of 200 hours or more of POST-approved, supervisory, management or leadership topic matter; and
- (c) ~~shall~~ must have served satisfactorily at the command or mid-management level currently and for one year prior to the date of appointment, as attested to by the head of the employing agency.

(2) Officers who believe they are eligible for a command certificate must submit a completed application, with agency administrator approval, to the director. Applications are available from POST staff or on the POST web site.

(a) The director will then review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director the certificate becomes valid unless the council takes further action.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403(1)(a), MCA

REASON: This amendment is reasonably necessary to inform officers who seek this certificate of the procedural requirements. The present rule says nothing about the process for securing the award of a command certificate, and POST finds that setting out the process in an administrative rule promotes transparency and makes the process fairer for officers who seek this certificate. In addition to clarifying the process, this amendment also clarifies that the experience and supervisory certificate of the officer seeking command certificate must be "discipline-specific," i.e., must be in the same discipline for which the command certificate is sought.

23.13.211 REQUIREMENTS FOR PUBLIC SAFETY OFFICER

ADMINISTRATIVE CERTIFICATE (1) In addition to ARM 23.13.204 and 23.13.205, the applicant for an award of the administrative certificate:

(a) ~~shall~~ must possess the discipline-specific advanced and command certificate; and

(b) ~~shall~~ must have served satisfactorily at the administrative or management level of the employing agency currently and for a period of one year prior to the date of application.

(2) remains the same.

(3) Officers who believe they are eligible for an administrative certificate must submit a completed application, with agency administrator approval, to the director. Applications are available from POST staff or on the POST web site.

(a) The director will then review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director the certificate becomes valid unless the council takes further action.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403(1)(a), MCA

REASON: This amendment is reasonably necessary to inform officers who seek this certificate of the procedural requirements. The present rule says nothing about the process for securing the award of an administrative certificate, and POST finds that setting out the process in an administrative rule promotes transparency and makes the process fairer for officers who seek this certificate. In addition to clarifying the process, this amendment also clarifies that the experience and advanced and command certificates of the officer seeking the administrative certificate must be "discipline-specific," i.e., must be in the same discipline for which the administrative certificate is sought.

23.13.301 QUALIFICATIONS FOR APPROVAL OF PUBLIC SAFETY

OFFICER TRAINING COURSES ~~(1) For the purposes of ARM 23.13.302, 23.13.304, and 23.13.401, the following definitions apply:~~

~~(a) "field training" is instruction, training, or skill practice rendered to an officer by another officer or officers on a tutorial basis during a tour of duty while performing the normal activities of that officer's employment;~~

~~(b) "in-service training" is training provided within a law enforcement and/or public safety agency that is utilized to review and develop skills and knowledge, and is primarily unique to specific agency needs;~~

~~(c) "POST approved training" is training reviewed and approved by the council and includes, but may not be limited to basic, regional, and professional courses; and~~

~~(d) "roll call training" is instruction or training of short duration, less than two hours, within any law enforcement and/or any public safety agency, conducted when officers change shifts.~~

~~(2) The council is responsible for the approval of all public safety officer training programs:~~

~~(a) It shall be the responsibility of the sponsoring agency to follow the required reporting procedures and monitor the standards for training, trainee attendance, and performance as set by the council; and~~

~~(b) Attendance records, where applicable tests and test scores for all POST approved training courses shall be retained by the council.~~

~~(1) The director may approve any request for POST training credit or course content accreditation. Any person aggrieved by a determination made by the director under this rule may seek review of the decision by the POST Council.~~

~~(3) (2) The course requirements for POST-approved training include To obtain the status of POST-approved training, training courses must:~~

~~(a) meeting meet the requirements contained in (2), the requirements for trainee attendance and performance, and the instructor requirements contained in these rules;~~

~~(b) being be based upon generally recognized best practices;~~

~~(c) comporting comport with Montana laws and court decisions; and~~

~~(d) being be at least two hours or more in length; and~~

~~(e) be advertised and open to all public safety agencies; and~~

~~(f) contain course content that has been reviewed and approved by the director, either before or after the training occurs, through the procedures set forth in (3).~~

~~(3) To receive POST training credit, employing agencies or any person or entity seeking course credit for POST-certified officers must submit to the director:~~

~~(a) application for accreditation;~~

~~(b) instructor certification or training record and an instructor biography;~~

~~(c) material showing course content, including a syllabus and/or lesson plan and student handouts.~~

~~(4) Approval requirements for training courses presented or sponsored by public safety agencies are:~~

~~(a) any public safety agency requesting approval of the training course must meet the accreditation requirements as mandated by POST prior to the commencement of a training course; and~~

~~(b) each course must be advertised and open to all public safety agencies.~~

~~(4) It is the responsibility of the employing authority or any person or entity wishing to receive POST-approved training credit to follow the required reporting procedures set forth in these rules and as set by the director and monitor the standards for training, trainee attendance, and performance as set by the council.~~

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403(1)(b), MCA

REASON: More public safety officer training is being offered by private vendors, and the manner in which individual public safety agencies authorize and approve training differs from agency to agency. The POST Council finds that rules that describe how it approves training programs and applications for accreditation will promote consistency for training vendors and agencies, while at the same time help

ensure that officers receive the appropriate training. Accordingly, this proposed rule amendment is necessary to promote fairness for officers and agencies while clarifying the POST Council's responsibilities and providing clear guidelines for POST staff. The definitions in ARM 23.13.301(1) have been transferred to the general definition rule, ARM 23.13.102, so that they will be applicable to all of the POST Council's rules.

23.13.304 THE BASIC COURSES (1) The amount of training for which credit will be granted in any basic public safety officer's course ~~shall~~ will be prescribed by the council.

(2) Students in any basic public safety officers' course ~~shall be~~ are required to complete instruction in the prescribed subject areas as directed by the council.

(3) The council ~~shall annually~~ will review and approve the curriculum for all basic public safety officers' courses by examining and approving performance objectives and lesson plans which have been established for each designated training block within the prescribed subject areas.

(a) All lesson plans submitted to the POST Council for accreditation must contain, at a minimum:

(i) the title of the lesson plan;

(ii) the training goal of the lesson plan;

(iii) application level performance objectives;

(iv) the method of evaluation;

(v) the student materials and handouts;

(vi) course content references.

(4) The council may approve changes from the course content established at the last ~~annual~~ review upon written application from the MLEA administrator ~~of the academy~~ providing evidence that such change is compatible with the public interest.

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403(1)(b), MCA

REASON: This amendment is necessary to set forth the criteria for basic training courses. The goal of including these criteria is to help vendors and agencies know what their lesson plans must include, thus facilitating POST-approval of their courses. The amendment implements Resolution 09-002, adopted on April 16, 2009, in order to make the policy enforceable. The resolution can be found on the POST Council's web site at the following link: <https://doj.mt.gov/post/post-resolutions/>. It also deletes the requirement for annual review by the POST Council of the basic curriculum, and makes minor changes in grammar.

23.13.702 GROUNDS FOR SANCTION, SUSPENSION, OR REVOCATION OF POST CERTIFICATION (1) The executive director or the council ~~shall~~ will consider ~~and rule on any complaint~~ legitimate allegation made against any public safety officer that may result in the sanction, revocation, or suspension of that officer's certification.

(2) The grounds for sanction, suspension, or revocation of the certification of public safety officers are as follows:

(a) willful falsification of material any information in conjunction with official duties, or any single occurrence or pattern of lying, perpetuating falsehoods, or dishonesty which may tend to undermine public confidence in the officer, the officer's employing authority, or the profession;

(b) a physical or mental condition that substantially limits the person's officer's ability to perform the essential duties of a public safety officer, or poses a direct threat to the health and safety of the public or fellow officers, and that cannot be eliminated or overcome by reasonable accommodation;

(c) addiction to or the unlawful use of or addiction to any controlled substances or other drug(s) that substantially limits the officer's ability to perform the essential duties of a public safety officer, or poses a direct threat to the health and safety of the public or fellow officers, and that cannot be eliminated or overcome by reasonable treatment;

(d) unauthorized use of or being under the influence of alcoholic beverages while on duty, or the use of alcoholic beverages in a manner which tends to discredit the officer, the officer's employing authority, or the profession;

(e) the commission conviction of a felony, or an offense which would be a felony if committed in this state, or an offense involving dishonesty, unlawful sexual conduct, or physical violence;

(f) conviction of any offense involving unlawful sexual conduct or unlawful physical violence;

(f) (g) neglect of duty or willful violation of orders or policies, procedures, rules, or regulations;

(g) (h) willful violation of the code of ethics set forth in these rules ARM 23.13.203;

(h) (i) other conduct or a pattern of conduct which tends to significantly undermine public confidence in the profession;

(i) (j) failure to meet the minimum standards for employment as a public safety or peace officer set forth in these rules or Montana law;

(j) (k) failure to meet the minimum training requirements provided in or continuing education and training requirements for a public safety or peace officer required by Montana law and these rules; or

(k) (l) acts that are reasonably identified or regarded as so improper or inappropriate that by their nature and in their context are harmful to the agency's employing authority's or officer's reputations, or to the public's confidence in the profession;

(m) operating outside or ordering, permitting, or causing another officer to operate outside of the scope of authority for a public safety or peace officer as defined by 44-4-401, 44-4-404, or 7-32-303, MCA, or any other provision of Montana law regulating the conduct of public safety officers;

(n) the use of excessive or unjustified force in conjunction with official duties;
or

(o) the sanction, suspension, or revocation of any license or certification equivalent to a POST certification imposed by a board or committee equivalent to POST in any other state.

(3) Conviction of any felony, an offense which would be a felony if committed in this state, or of an offense for which the person could have been imprisoned in a

~~federal or state penitentiary will be cause for an automatic referral to the council for revocation of an officer's certification.~~

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403(1)(c), MCA

REASON: This amendment is reasonably necessary to clarify that sanctions are related to behaviors that negatively affect an officer's abilities or that negatively affect the public's confidence in public safety officers. This amendment, along with others, including the amendments to the code of ethics, reflects POST's finding that officers must hold themselves and their profession to high standards. POST also finds that officers deserve to know what is expected of them. POST's goals in expressly clarifying the existing grounds for sanctions and including additional grounds for sanctions, are to provide guidance to officers, to promote fairness for officers who have been accused of wrongdoing, and to provide guidance to the council so that its decisions will bear meaningful appellate review. Additionally, there are grammatical changes to promote clarity.

23.13.703 PRELIMINARY PROCEDURE IN PROCEEDINGS FOR SUSPENSION OR REVOCATION OF CERTIFICATION PROCEDURE FOR MAKING AND RECEIVING ALLEGATIONS OF OFFICER MISCONDUCT AND FOR INFORMAL RESOLUTION OF THOSE ALLEGATIONS BY THE DIRECTOR

~~(1) Any complaint made against a public safety officer that alleges grounds for sanction, suspension, or revocation that is not made by the director or the governmental unit employing the officer shall be made initially to the appropriate governmental unit by the complainant.~~

~~(2) The appropriate governmental unit shall issue a written ruling on the initial complaint. A copy of the initial complaint and the governmental unit's written ruling shall be forwarded to the director.~~

~~(3) If a complainant wishes to pursue their complaint with the council, the complaint must be in writing and provide at least the following information:~~

~~(a) name, address, and telephone number of the complainant (the director may keep this information confidential for good cause shown);~~

~~(b) name and place of employment of the person complained against; and~~

~~(c) a full and complete description of the incident.~~

~~(4) Complaints made by or filed with the director shall be investigated by the director and/or their designee.~~

~~(5) Following review and investigation of a complaint, the director may take any appropriate action, including but not limited to the following:~~

~~(a) file a formal complaint with the council on their own behalf;~~

~~(b) send a written letter of inquiry to the subject of the complaint, explaining the allegation of violation and requesting an explanation or statement of intent to cure the violation;~~

~~(c) issue an appropriate sanction, enter into a stipulation or memorandum of understanding with the officer or his counsel, or otherwise informally resolve the complaint;~~

~~(d) accept the voluntary surrender of a certificate issued by the council; or~~

~~(e) for good cause, recommend closure of the investigation of a complaint.~~

~~(6) In all cases that are not forwarded to the council for formal proceedings, the director shall, when the case is closed, file a written report setting forth the circumstances and resolution of the case.~~

(1) The POST Council will create, maintain, and adopt in public meetings a "flow chart" policy and procedure for processing and responding to allegations. The flow chart policy and procedure will be posted on POST's web site and made publicly available. It will comply with these rules and offer the director further guidance regarding the specific steps that the director and POST staff will take when responding to allegations.

(2) Any allegation made against a public safety officer that states potential grounds for sanction, suspension, or revocation of POST certification must be made initially to the employing authority of the officer in question by the individual making the allegation, unless the employing authority is making the allegation.

(3) Except as provided in this section, POST will not proceed with an allegation unless the individual making the allegation or POST staff has notified the employing authority of the allegation. This requirement does not apply if the allegation has been made against the highest ranking officer in the agency, who would otherwise constitute the employing authority, and there is some reason to believe that the investigation or public safety would be put in danger by such a notification.

(4) After being notified of the allegation, or in making its own allegation of misconduct, the employing authority must give POST a notice of the employing authority's investigation, action, ruling, finding, or response to the allegation, preferably in writing, which must include a description of any remedial or disciplinary action pending or already taken against the officer regarding the allegation in question. If available, a copy of the initial allegation made to the employing authority and the employing authority's written response must be forwarded to the director.

(5) After the employing authority has been notified and given the opportunity to act, the director or POST staff may accept an allegation.

(a) Any allegation submitted to the council must be submitted to the director or POST staff and may not be submitted to the full council or any individual member of the council.

(b) The allegation must provide at least the following information:

(i) the name, address, and telephone number of the individual making the allegation, which the director may keep confidential if the individual or public safety would be harmed by disclosure;

(ii) the name and place of employment of the officer;

(iii) a complete description of the incident;

(iv) the remedy sought, including a recommendation for a sanction, suspension, or revocation of the officer's POST certification;

(c) A person or entity making an allegation is encouraged to use the allegation form available from POST staff.

(6) The director may initiate an allegation, based on good cause and reliable information, and must follow the procedure set forth in this rule as if initiated by any other individual, including but not limited to submitting the complaint to the employing authority.

(7) After an allegation has been received or has been initiated by the director, the director, in consultation with contested case counsel for POST, will correspond with the respondent in writing.

(a) All such correspondence must be copied to the employing authority, unless the exception noted in (3) applies.

(b) The flow chart and accompanying policy provided in (1), will outline the number and nature of these letters.

(c) The purpose of this correspondence is to allow the officer to respond to the allegation, allow the director and contested case counsel to gather more information, and allow the parties to reach an informal resolution.

(8) After an allegation is made by or filed with the director, the director, contested case counsel for POST, the POST compliance officer and investigator, or other POST staff or designees will investigate the complaint.

(9) Following the review and investigation of an allegation, communication with the respondent, communication with the employing authority, and consultation with counsel for POST, the director may take any appropriate action, including but not limited to the following:

(a) engage in informal negotiations and settlement discussions and enter into a stipulation or memorandum of understanding with the officer or the officer's counsel, or otherwise informally resolve the complaint. An informal resolution reached before the MAPA contested case hearing stage under this subsection is not subject to approval by the council;

(b) accept the voluntary surrender of a certificate;

(c) make one of the following findings:

(i) No finding: The investigation cannot proceed for reasons that include but are not limited to: the complainant failed to disclose promised information to further the investigation; or the complainant wishes to withdraw the complaint; or the complainant is no longer available for clarification. This finding may also be used when the information provided is not sufficient to determine the identity of the officer(s) or employee(s) involved.

(ii) Not sustained: The investigation failed to discover sufficient evidence to prove or disprove the allegations made or the investigation conclusively proved that the act or acts complained of did not occur.

(iii) Sustained: The investigation disclosed a preponderance of evidence to prove the allegation(s) made.

(d) issue the appropriate sanction, suspension, or revocation of a certificate;

(e) if a sanction, suspension, or revocation is imposed, the director must provide a notice of agency action in writing to the officer, satisfying the notice required by 2-4-601, MCA;

(f) the officer may request contested case proceedings pursuant to 44-4-403, MCA and MAPA, as outlined in ARM 23.13.704.

(10) If a review of the conduct of an officer is pending before any court, council, tribunal, or agency, the director may, as a matter of discretion, stay any proceedings for revocation and suspension pending before the council, no matter what stage or process they have reached, until the other investigation or proceeding is concluded. If the case has already been assigned to a hearing examiner, the

hearing examiner must grant a stay based on an application by the director or counsel for POST.

(11) In all cases in which a written allegation is submitted which does not culminate in a MAPA contested case hearing, the director must file a written report in the officer's POST file setting forth the circumstances and resolution of the case. All written correspondence with the officer and the officer's employing authority must also be maintained in the officer's POST file.

AUTH: 2-15-2029, MCA

IMP: 2-4-201, 2-15-2029, 44-4-403, MCA

REASON: This amendment is reasonably necessary to implement the POST Council's new process for handling complaints against certified officers. An explanation of the need for the new process follows Proposed New Rule XII above. This rule replaces the existing rule and describes the new process. The procedures set forth in this rule provide fundamental due process to officers against whom allegations have been made while providing POST a workable means of processing its workload. The procedures in this rule precede the process described in proposed amended ARM 23.13.704.

23.13.704 COMMENCEMENT OF FORMAL PROCEEDINGS FOR SUSPENSION OR REVOCATION OF CERTIFICATION REQUESTS FOR A FORMAL CONTESTED CASE HEARING UNDER MAPA FOLLOWING SANCTION, SUSPENSION, OR REVOCATION OF POST CERTIFICATION BY THE DIRECTOR

~~(1) Formal proceedings may be commenced only after the filing of a complaint as described in these rules, the director's determination that formal proceedings are necessary, the designation of a presiding officer, and the issuance of a written order to show cause, and notice of opportunity for hearing.~~

~~(2) Formal proceedings for suspension or revocation are subject to the Montana Administrative Procedure Act, and must be conducted pursuant to that act.~~

~~(3) In formal proceedings, the respondent must file an answer, or be in default. The answer shall contain at least a statement of grounds of opposition to each allegation of the complaint which the respondent opposes.~~

~~(4) Service shall be made in a manner consistent with Montana law.~~

~~(5) If a review of the conduct of a person holding a certificate subject to revocation or suspension under these rules is pending before any court, council, tribunal, or agency, the director may, in their discretion, stay any proceedings for revocation and suspension pending before the council.~~

~~(6) In the event the respondent fails to answer, appear, or otherwise defend a complaint against them of which the respondent had notice, the presiding officer may enter an order containing findings of fact, conclusions of law, and an opinion in accordance with the Montana Administrative Procedure Act, Montana Rules of Civil Procedure, and/or any other rule of law applicable.~~

~~(7) Any party may represent themselves, or may at their own expense be represented by an attorney licensed to practice law in the state.~~

~~(8) A representative from the office of the Attorney General may present the case of the complainant.~~

~~(9) The presiding officer may utilize a legal advisor to assist in conducting the hearing. If the presiding officer's legal advisor is employed by the office of the Attorney General, their contact with the representative from the office of the Attorney General who presents the case of the petitioner shall be restricted to that permitted by law.~~

~~(10) Unless required for disposition of ex parte matters authorized by law, after issuance of notice of hearing, the presiding officer may not communicate with any party or their representative in connection with any issue of fact or law in such case, except upon notice and opportunity for all parties to participate.~~

(1) If the director sanctions, suspends, or revokes an officer's POST certification pursuant to ARM 23.13.703(9) and the officer receives a notice of agency action, then the officer has the right to request a formal contested case proceeding under MAPA, to include a hearing, pursuant to 44-4-403(3), MCA.

(2) The proceedings and hearing can only be initiated by a request from the officer whose certificate was sanctioned, suspended, or revoked, and not by any other person or entity.

(3) To request a hearing, the officer must follow the instructions contained in the "notice of agency action" and notify the appropriate individual or the director that the officer requests a hearing within 30 days of the officer receiving the notice of agency action.

(4) Failure to notify and request a hearing within 30 days of receiving the notice of agency action will constitute a waiver of the right to a hearing.

AUTH: 2-15-2029, MCA

IMP: 2-4-201(2), 2-15-2029, 44-4-403(3), MCA

REASON: This amendment is reasonably necessary to implement the POST Council's new policy for handling requests for contested case hearings. A full explanation of the need for the new process follows Proposed New Rule XIV above. The goals of the new policy are to provide more due process to officers seeking contested case hearings and also to clarify the applicable process. If an officer requests a hearing under this part, the hearing process is established in MAPA and in the Attorney General Model Rules to be adopted in Proposed New Rule V above.

23.13.711 CONTESTED CASES, RECORD OF PROCEEDINGS ~~(1) The record shall consist of the items enumerated in 2-4-614, MCA, and an audio recording of oral proceedings shall be the official record of the proceedings.~~

(1) The hearing examiner in the contested case proceeding is responsible for maintaining the official record of the contested case until its conclusion. The record must include:

(a) all pleadings, motions, and rulings;

(b) all evidence, either written or oral, received, or considered by the presiding officer;

(c) a statement of matters officially noticed;

(d) questions and offers of proof, objections, and rulings on objections;

(e) proposed findings and exceptions; and

(f) any decision, opinion, or report, and any proposed findings of fact, conclusions of law, and proposed order, entered by the hearing examiner, which must be in writing.

(2) The hearing examiner must number the docket and maintain it like the docket of a court of record.

(3) At the request of any party, all or part of the hearing proceedings must be transcribed. The cost of transcription is the responsibility of the requesting party.

AUTH: 2-15-2029, MCA

IMP: 2-4-201(2), 2-15-2029, 44-4-403(3), MCA

REASON: MAPA requires maintenance of the record of contested case proceedings. This proposed rule amendment would govern the record of proceedings before POST. The new process supplants the existing rule, which is too brief to be very helpful. The amended rule adopts Attorney General's Model Rule ARM 1.3.220. Section (2) is new and obligates the hearing examiner or presiding officer to maintain the record as though in the office of a clerk of the district court. Following this practice will ensure that the record is complete for appellate review.

5. The rules as proposed to be transferred and amended provide as follows, new matter underlined, deleted matter interlined:

23.13.401 (23.13.212) INSTRUCTOR CERTIFICATION REQUIREMENTS

(1) remains the same.

(2) A "primary instructor" is one who delivers a specific lesson plan pertaining to a discipline. To qualify as a primary instructor, the person shall apply to the council, on a form approved by the council, and shall meet the following requirements:

(a) and (b) remain the same.

(c) must have successfully completed a 40-hour minimum instructor development course or equivalent approved by the ~~council~~ director;

(d) remains the same.

(e) must submit the specific lesson plan that is at least two hours in length, and which includes performance objectives, instructional strategies, and complete course content.

(3) Master instructors must possess the competencies to adequately develop and deliver a broad range of curricula pertaining to a specific discipline. To qualify as a master instructor, the person shall apply to the council, on a form approved by the council, and shall meet the following requirements:

(a) and (b) remain the same.

(c) must have an endorsement from ~~a professional instructor and~~ the POST director, or designee, attesting to the applicant's competencies; and

(d) remains the same.

(4) Professional instructors are certified to deliver and instruct a broad range of topic matters to which independent accreditation is not required as a condition of delivery as prescribed by the council. To qualify as a professional instructor, the

person shall apply to the council on a form approved by the council, and shall meet the following requirements:

(a) must be employed by a public safety agency as a full-time training and development specialist or equivalent; and

(b) must have endorsement from the POST director or designee and agency administrator; and

(c) meet all of the requirements necessary to qualify as a master instructor as required by (3).

(5) The council will certify approved primary and master instructors to instruct in those specific subjects for which the council has found them qualified. Each certified instructor ~~shall~~ will be listed in an official register of the council, and for each primary and master instructor, each subject that instructor is certified to teach ~~shall~~ will be noted in ~~said the~~ register.

(6) remains the same.

(7) After four years of continuous certification, ~~master~~ all instructors may be recertified for a four-year period.

(8) remains the same.

~~(9) Applications for instructor certification and renewal shall be reviewed by the council. Action on the application shall be made at the council's first regularly scheduled meeting following the review of the application.~~

(9) Officers who believe they are eligible for any instructor certificate must submit a completed application, with agency administrator approval, to the director. Applications are available from POST staff or on the POST web site.

(a) The director will then review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director the certificate becomes valid unless the council takes further action.

~~(10) Whenever the council denies an application, renewal of certification, or recalls, suspends, or revokes an existing certification, the council will notify the applicant or holder within 15 days from the date of the council's action. Persons so notified will have 30 days from the date of receipt of notification to file with the council a written appeal of the denial or recall, suspension, or revocation. An informal hearing of the appeal will be held at the next regularly scheduled meeting of the council. During the period of the appeal, the certificate shall be suspended, and all findings and decisions will be pursuant to ARM 23.13.712.~~

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, 44-4-403(1)(a), MCA

REASON: This amendment is reasonably necessary to inform officers who seek this certificate of the procedural requirements. The present rule says nothing about the process for securing the award of an instructor certificate, and POST finds that setting out the process in an administrative rule promotes transparency and makes the process fairer for officers who seek this certificate. Additionally, to make the rules easier to navigate and more user-friendly, all the certification requirements are being moved to subchapter 2 of the POST rules. Accordingly, it is necessary to

15-8/7/14

MAR Notice No. 23-13-240

move this rule from subchapter 4 to subchapter 2. The amendment to this rule will also provide clarity and consistency by establishing the time limit for lesson plans, clarifying the roles of the "director" and the council as they pertain to instructor training courses, and removing language that conflicted with certification and disciplinary procedures.

23.13.501 (23.13.213) REQUIREMENTS FOR DESIGNATED INCIDENT COMMAND CERTIFICATION (1) remains the same.

(2) The council ~~shall~~ will issue incident command certificates designated by:
(a) emergency response specialty; and
(b) area of expertise denoted as any of the ICS command staff positions or any of the general staff positions of planning, logistics, or finance.

(3) In addition to ARM 23.13.203 and 23.13.205, applicants for an award of a designated incident command certificate:

(a) ~~shall~~ must possess an intermediate certificate;
(b) ~~shall~~ must have completed an approved ICS course;
(c) ~~shall~~ must have completed the required hours of additional training and testing for the command or general staff position for which certification is being sought;

(d) ~~shall~~ must be trained within a specialized area of emergency response;
(e) ~~shall~~ must have successfully served in a command or general staff capacity as attested to on an application by the applicant's agency administrator;
and

(f) ~~shall~~ must be eligible to respond as overhead support for mutual aid requests outside of the applicant's jurisdiction, as attested to on an application by the applicant's agency administrator.

(4) Officers who believe they are eligible for an incident command certificate must submit a completed application, with agency administrator approval, to the director. Applications are available from POST staff or on the POST web site.

(a) The director will then review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.

(b) Upon approval by the director the certificate becomes valid unless the council takes further action.

AUTH: 2-15-2029, MCA

IMP: 2-15-209, 44-4-403(1)(a), MCA

REASON: This amendment is reasonably necessary to inform officers who seek this certificate of the procedural requirements. The present rule says nothing about the process for securing the award of an incident command certificate, and POST finds that setting out the process in an administrative rule promotes transparency and makes the process fairer for officers who seek this certificate. Additionally, to make the rules easier to navigate and more user-friendly, all the certification requirements are being moved to subchapter 2 of the POST rules. Accordingly, it is necessary to move this rule from subchapter 5 to subchapter 2. These amendments

will also promote consistency in the rules by making the procedures for incident command certification the same as for other certifications.

23.13.701 (23.13.102) DEFINITIONS As used in this subchapter, the following definitions apply:

(1) "Allegation" means:

(a) a statement or accusation of misconduct made against a public safety officer to POST staff or the council by anyone;

(b) a statement or accusation of misconduct against a public safety officer made by the POST executive director acting upon any credible knowledge, information, or belief;

(c) the document or statement, prior to the notice of agency action, that initiates the informal revocation, suspension, or sanction proceeding against an officer.

~~(2) "Complainant" means:~~

~~(a) any person or entity making a complaint against a public safety officer to the council; or~~

~~b) the POST executive director acting upon any credible knowledge, information, or belief.~~

~~(1) (2) "Certification" or "certificate" means any basic or advanced standards and training certification granted by the council after completion of the specific requirements as set forth in these rules.~~

~~(3) "Contested case" means:~~

~~(a) a civil administrative proceeding that progresses pursuant to notice and hearing as outlined in MAPA and these rules; or~~

~~(b) a proceeding initiated by a request for a hearing from the officer after the officer has received a notice of agency action imposing sanction, suspension, or revocation by the director when the case could not be settled at the preliminary stage of review, investigation, or informal proceeding.~~

~~(3) (4) "Council" or "POST Council" or "POST" means the full 13-member public safety officer standards and training council as created by 2-15-2029, MCA.~~

~~(4) (5) "Director" or "executive director" means the executive director of the public safety officer standards and training council, as established by these rules.~~

~~(5) "Formal Proceedings" means proceedings for suspension or revocation that the director determines cannot be settled at the preliminary stage of review, investigation, and/or informal proceeding stage, and must proceed pursuant to notice and hearing.~~

~~(6) "Employing authority," "employing agency," or "Governmental governmental unit" means any governmental entity which that is statutorily empowered with administration, supervision, hiring or firing authority, training, or oversight over a public safety agency or officer. This may include but is not limited to: the chief of police, mayor, county attorney, city council, warden, sheriff, etc.~~

~~(7) "Field training" means instruction, training, or skill practice rendered to an officer by another officer or officers on a tutorial basis during a tour of duty while performing the normal activities of that officer's employment.~~

~~(8) "Hearing examiner" means the chair or the council's designated representative, who regulates the course of a contested case proceeding or other~~

hearing held by the council, pursuant to 2-4-611, MCA and these rules. Powers of a presiding officer are the same as those of a hearing examiner.

(9) "In-service training" means training provided within a law enforcement and/or public safety agency to review and develop skills and knowledge for the specific agency's needs.

(7) (10) "Informal proceedings" means proceedings that do not require notice and hearing, and may include but not be limited to sanctions, stipulations, and/or memorandums of understanding a proceeding that occurs before a MAPA contested case proceeding and includes but is not limited to: correspondence between POST and the officer accused of misconduct and his employing authority; investigation by POST; stipulation or settlement negotiations or agreement; or a sanction, suspension, or revocation imposed through a notice of agency action.

(11) "MAPA" means the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, MCA.

(12) "Misconduct" means any action or conduct that could potentially result in sanction, suspension, or revocation of POST certification pursuant to ARM 23.13.702 or a violation of the code of ethics contained in ARM 23.13.203.

(13) "MLEA" or "Academy" means the Montana Law Enforcement Academy.

(14) "Notice of agency action" means the document that:

(a) gives an officer the notice required under 2-4-601, MCA;

(b) informs the officer of the suspension, revocation, or sanction imposed by the POST director and the supporting reasons;

(c) initiates the 30-day time period in which an officer may request a hearing and thus initiate a contested case proceeding under MAPA.

(15) "Party" means one side, or its representative, in an informal or contested case proceeding, usually the respondent and/or POST.

(16) "POST-approved training" means training reviewed and approved by the director or council for which POST gives training credit, including but not limited to basic, regional, and professional courses.

(8) (17) "Presiding officer" means the chair of the council or their designated representative, who shall regulate the course of hearings held by the council who holds all same powers as a hearing examiner for the purpose of contested cases.

(9) (18) "Public safety officer" means an officer, as defined in 44-4-401, MCA. Nothing in these rules may be construed to apply the requirements of 7-32-303(5), (8) or 44-4-403, MCA to an elected official.

(10) (19) "Respondent" means the public safety officer against whom a complaint an allegation of misconduct has been made, or their the officer's legal representative.

(11) (20) "Revocation" means the permanent cancellation by the council of a public safety officer's POST certificate, certification, and certifiability such that the performance of public safety officer duties is no longer permitted.

(21) "Roll call training" means instruction or training of short duration, less than two hours, within any law enforcement and/or any public safety agency, conducted when officers change shifts.

(12) (22) "Sanction" means a consequence or punishment for a violation of ARM 23.13.702, or the accepted norms of being a public safety officer 23.13.203, or the laws or rules of Montana.

~~(13)~~ (23) "Suspension" means the annulment, for a period of time time period set by the director or council, of a public safety officer's POST certificate, certification, and certifiability, such that the performance of public safety or peace officer duties is not permitted during that period of time.

~~(14)~~ "Uncertifiable officer" means a public safety officer who:

~~(a) is employed as a public safety officer, but does not possess the required basic certificate, as required in ARM 23.13.206;~~

~~(b) has been the object of a complaint filed pursuant to ARM 23.13.703;~~

~~(c) has been afforded the process due by law;~~

~~(d) has been found to be subject to suspension or revocation pursuant to ARM 23.13.702.~~

AUTH: 2-15-2029, 44-4-402(2), MCA

IMP: 44-4-403, 2-15-2029, MCA

REASON: These amendments are reasonably necessary to clarify existing terminology, delete unnecessary definitions, and to establish that the defined terms apply to the entire chapter, rather than only a subchapter. POST proposes to renumber the rule to place it at the beginning of POST's rules, and thereby emphasize that the definitions apply to all the rules.

~~23.13.710 (23.13.706) DECISION AND ORDER, STAYS (1) In the event a certificate is suspended, the council shall state in its decision and order the length of time for which the certificate is suspended and the reasons therefore. In suspending a certificate, the council shall be guided by generally accepted professional standards. A respondent who has had certification suspended may apply for recertification once the period of suspension has passed.~~

~~(2) In the event a certificate is revoked or suspended, the respondent shall surrender the certificate(s) to the council and forfeit the position authority and powers afforded the officer in this state.~~

~~(3) In the event a certificate is revoked or suspended, employment in any public safety discipline during the time of suspension is prohibited, and permanently prohibited under a revocation order.~~

(1) After completing a contested case proceeding, the hearing examiner shall, within 30 days of the hearing, issue findings of fact and conclusions of law that would, if adopted by the council, meet the requirements of 2-4-623, MCA.

(2) Within 15 days after the hearing examiner has issued findings, conclusions, and a proposed decision, an adversely affected party may submit exceptions to the hearing examiner's decision. The council shall receive briefs and hear oral arguments at its next meeting and deliberate pursuant to 2-4-621, MCA. The party filing the exceptions must incorporate a supporting brief in the document stating the exceptions. The opposing party may file a brief in response to the exceptions within ten days. No reply brief will be received.

(3) For the period between the submission of the hearing examiner's decision and the hearing before the council, general counsel for the council or another person designated by the council chair will act as a special master for purposes of resolving any issue arising before the council hearing.

(4) After deliberating, the council will decide to adopt, reject, or modify the hearing examiner's findings and recommendation. The council will issue a decision and order pursuant to 2-4-623, MCA, and mail a copy of this decision to respondent or the respondent's legal representative.

(5) If a party has filed exceptions to the decision of the hearing examiner, the contested case is not considered to be submitted for decision under 2-4-623(1), MCA, until oral arguments are concluded before the council.

(6) If a certificate was revoked or suspended by the director before the hearing, the certificate will remain revoked or suspended pending the outcome of the contested case proceeding and the respondent must surrender the certificate(s) to the council and forfeit the position, authority, and powers afforded the officer in this state while the contested case proceeds. However, the hearing examiner, before the contested case hearing, or the special master designated in (3), after the hearing, may, upon a properly supported motion that affords POST adequate opportunity to respond, stay the suspension or revocation for good cause shown.

AUTH: 2-15-2029, MCA

IMP: 2-4-201(2), 2-15-2029, 44-4-403(3), MCA

REASON: This amendment is reasonably necessary to clarify how the new disciplinary policy culminates in a proposed order that can either become final or that can be appealed to the full council and then to the Board of Crime Control. The amendments also clarify the effect of the orders pending review and the process for seeking a stay of the proposed order from the council. With these amendments, the rule will promote fairness for officers and also will result in decisions from the council that allow for meaningful appellate review. POST proposes renumbering this rule for purposes of continuity.

~~23.13.712 (23.13.718) APPEALS (1) If requested by the respondent an appeal may be made to the Montana Board of Crime Control pursuant to ARM 23.14.1004. The decision of the Montana Board of Crime Control is the final agency decision subject to judicial review.~~

(1) A respondent, adversely affected by a final POST Council decision rendered after a contested case proceeding, may appeal to the Montana Board of Crime Control pursuant to ARM 23.14.1004 and 44-4-403(3), MCA. The decision of the Montana Board of Crime Control is the final agency decision subject to judicial review pursuant to 2-4-702, MCA.

AUTH: 2-15-2029, MCA

IMP: 2-4-201(2), 2-15-2029, 44-4-403(1), MCA

REASON: Unlike most agency decisions, POST decisions are subject to an additional layer of administrative review before a petition may be filed in district court. This amendment is necessary to clarify the availability of appeal. POST proposes renumbering this rule for purposes of continuity.

6. The POST Council proposes to repeal the following rule:

23.13.202 REQUIREMENTS FOR PUBLIC SAFETY OFFICERS HIRED BEFORE THE EFFECTIVE DATE OF THIS REGULATION

AUTH: 2-15-2029, MCA

IMP: 2-15-2029, MCA

REASON: The repeal of this rule is necessary to remove any inconsistency or confusion as to which officers are subject to the code of ethics. This rule clarifies the existing rule that the requirements of the code of ethics apply to officers employed before the effective date of the code's adoption in 2008. ARM 23.13.202 is inconsistent with ARM 23.13.201, 23.13.203, 23.13.204, 23.13.205, and 23.13.206 as proposed for amendment above.

7. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Katrina Bolger, POST Council, 2260 Sierra Road, Helena, Montana, 59602; telephone (406) 444-9974; or e-mail kbolger@mt.gov, and must be received no later than 5:00 p.m., September 18, 2014.

8. Chris D. Tweeten, Attorney at Law, has been designated to preside over and conduct this hearing.

9. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 7 above or may be made by completing a request form at any rules hearing held by the department.

10. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

11. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

12. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption, amendment, transfer, and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Matt Cochenour
Matt Cochenour
Rule Reviewer

Sheriff Tony Harbaugh
Chairman
Public Safety Officers Standards
and Training Council

By: /s/ Perry Johnson
Perry Johnson
Executive Director

Certified to the Secretary of State July 28, 2014.

**New Business:
Director's Report,
Coroner Issues**



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7-4-2901. Appointment of deputy coroners. (1) The coroner, with approval of the county commissioners, may appoint one or more deputy coroners to assist the coroner or act in the coroner's absence.

(2) At the time of appointment, a deputy coroner or acting coroner must meet the qualifications required of a coroner as provided in [7-4-2904\(1\)](#) and (2)(a). Within a reasonable time after appointment, a deputy shall successfully complete the basic coroner course, as provided for in [7-4-2905\(2\)\(a\)](#). The deputy shall also meet the requirements for advanced education as provided in [7-4-2905\(2\)\(b\)](#).

(3) A deputy coroner may be the coroner or qualified deputy coroner from another county.

History: En. 82-444 by Sec. 18, Ch. 530, L. 1977; R.C.M. 1947, 82-444; amd. Sec. 3, Ch. 367, L. 1987; amd. Sec. 438, Ch. 61, L. 2007.

Provided by Montana Legislative Services



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7-4-2902. Vacancy in office of county coroner or disqualification of coroner. (1) The coroner, or the board of county commissioners if the coroner is unable or refuses to act, shall request the coroner or a qualified deputy coroner of another county to be acting county coroner if the coroner:

(a) is absent or unable to attend to duties or if the office of coroner is vacant and there are no qualified deputies available;

(b) is related to the deceased;

(c) is a potential party in an action concerning the death or the coroner's inquiry into the death may pose a conflict of interest;

(d) has not successfully completed the basic coroner course required in [7-4-2905](#) and there are no qualified deputies available; or

(e) is disqualified under the provisions of [46-4-201](#).

(2) The salary of and expenses incurred by an acting coroner on behalf of a requesting county are an allowable charge against the requesting county.

History: (1)En. Sec. 4494, Pol. C. 1895; re-en. Sec. 3070, Rev. C. 1907; re-en. Sec. 4852, R.C.M. 1921; Cal. Pol. C. Sec. 4289; re-en. Sec. 4852, R.C.M. 1935; Sec. 16-3405, R.C.M. 1947; (2)En. Sec. 4640, Pol. C. 1895; re-en. Sec. 3173, Rev. C. 1907; re-en. Sec. 4922, R.C.M. 1921; amd. Sec. 1, Ch. 59, L. 1933; re-en. Sec. 4922, R.C.M. 1935; amd. Sec. 1, Ch. 9, L. 1937; amd. Sec. 1, Ch. 211, L. 1951; amd. Sec. 9, Ch. 439, L. 1975; Sec. 25-236, R.C.M. 1947; R.C.M. 1947, 16-3405, 25-236(part); amd. Sec. 3, Ch. 371, L. 1979; amd. Sec. 2, Ch. 367, L. 1987; amd. Sec. 439, Ch. 61, L. 2007.

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7-4-2904. Qualifications for office of county coroner. (1) In addition to the qualifications set forth in [7-4-2201](#), to be eligible for the office of coroner, at the time of election or appointment to office a person must be a high school graduate or holder of an equivalency of completion of secondary education as provided by the superintendent of public instruction under [20-7-131](#) or of an equivalency issued by another state or jurisdiction.

(2) Each coroner, before entering the duties of office, shall:

(a) take and file with the county clerk the constitutional oath of office; and

(b) certify to the county clerk that:

(i) the individual has satisfactorily completed the basic coroner course of study provided in [7-4-2905](#) or that the individual has completed the equivalent educational requirements approved by the attorney general; or

(ii) the individual intends to take the basic coroner course at the next offering of the course if the coroner has been appointed or was elected by other than a local government general election and, from the date of appointment or election and assumption of the duties as coroner, a basic coroner course was not offered. A coroner forfeits office for failure to take and satisfactorily complete the next offering of the basic coroner course.

History: En. Sec. 1, Ch. 367, L. 1987; amd. Sec. 440, Ch. 61, L. 2007.

Provided by Montana Legislative Services



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7-4-2905. Coroner education and continuing education. (1) Coroner education must be conducted by the Montana public safety officer standards and training council established in 2-15-2029. The council may adopt rules establishing standards and procedures for basic and advanced education. The cost of conducting the education must be borne by the department of justice from money appropriated for the education. The county shall pay the salary, mileage, and per diem of each coroner-elect, coroner, and deputy coroner attending from that county.

(2) (a) The council shall conduct a 40-hour basic coroner course of study after each general election. The course, or an equivalent course approved by the council, must be completed before the first Monday in January following the election. The council may conduct other basic coroner courses at times it considers appropriate.

(b) The council shall annually conduct a 16-hour advanced coroner course. Unless there are exigent circumstances, failure of any coroner or deputy coroner to satisfactorily complete the advanced coroner course, or an equivalent course approved by the council, at least once every 2 years results in forfeiture of office. The council may adopt rules providing a procedure to extend the 2-year period because of exigent circumstances.

History: En. Sec. 4, Ch. 367, L. 1987; amd. Sec. 1, Ch. 118, L. 1993; amd. Sec. 1, Ch. 24, L. 1995; amd. Sec. 6, Ch. 506, L. 2007.

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44-4-401. Definitions. For the purposes of this part, the following definitions apply:

(1) "Council" means the Montana public safety officer standards and training council established in 2-15-2029.

(2) "Public safety officer" means:

(a) a corrections officer who is employed by the department of corrections, established in 2-15-2301, and who has full-time or part-time authority or responsibility for maintaining custody of inmates in a state correctional facility for adults or juveniles;

(b) a detention officer who is employed by a county and who has full-time or part-time authority or responsibility for maintaining custody of inmates in a detention center, as defined in 7-32-2241, or a youth detention facility, as defined in 41-5-103;

(c) a peace officer, as defined in 46-1-202;

(d) a department of transportation employee appointed as a peace officer pursuant to 61-12-201;

(e) a law enforcement officer or reserve officer, as the terms are defined in 7-32-201;

(f) a public safety communications officer, as defined in 7-31-201;

(g) a probation or parole officer who is employed by the department of corrections pursuant to 46-23-1002;

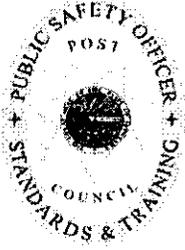
(h) a person subject to training requirements pursuant to 44-2-113 or 44-4-902; and

(i) any other person required by law to meet the qualification or training standards established by the council.

History: En. Sec. 2, Ch. 506, L. 2007.

Provided by Montana Legislative Services

**New Business:
Director's Report,
Proctors**



Montana Public Safety Officer Standards & Training Council

2260 Sierra Road East
Helena, MT 59602

Phone: (406) 444-9975
Fax: (406) 444-9978

APPLICATION FOR POST CREDIT FOR OUT-OF-STATE AND OTHER COURSES

Applicant Name _____ Phone _____
POST ID Number _____ Date of Birth _____
Agency _____

Name of Course _____
Length of Course (hours) _____ Organization Sponsoring Course _____
Location of Course _____

Self-Instructional Course (Test Must be Proctored)

Proctor Name _____ Phone _____
Proctor Signature _____
Proctor Pre-approved Yes No Date Approved _____
Resume of Proctor/Monitor Attached Yes On File (Facility Trainers)
Date of Course Begin Date _____ End Date _____
Length of Course (hours) _____
Course Outline _____

Signature of Applicant _____ Date _____

Signature of Supervisor _____ Date _____

**You must mail the completed form, with all of the following information attached,
to POST at the address above within 180 days of class completion:**

- a copy of the course certificate of completion
- course outline
- instructor biographies
- study guide or course syllabus for self-instructional study

See page 2 for Instructions

Instructions for Application for POST Credit for Out-of-State and Other Courses

Use this form when you attend out-of-state training, complete an online course or attend training that may not have been POST-approved.

Under the new POST policy on acceptance of training for POST credit, you may now submit military, college and other courses for credit.

In addition to this form, you must also write a short description of how the course you completed relates to your work as a Montana Public Safety Officer. POST no longer adjusts hours for college degrees. Rather, individual course work is evaluated and, as with military and other courses, you must submit a written description of how each class relates to your work as an Officer.

College courses are credited using the following formula:

- 6 hours for every college quarter hour
- 10 hours for every college semester hour

If you attend a course, conference, etc. that does not award a completion certificate, you must provide alternative documentation of your attendance and completion.

For this form, a "proctor" is a training supervisor or staff supervisor such as a sergeant or above, who oversees the testing of the course you completed.

Self-study courses such as those from "American Corrections Association" or the "Backup Corporation" DVD classes are not awarded POST credit unless the testing is proctored.

Incomplete or unsigned applications may not be considered for approval.

**New Business:
Director's Report,
LEOB Syllabus Review**

MLEA

Montana Law Enforcement Academy
 Law Enforcement Officer Basic Course
 Release - September 2014

Course Classifications

Administrative Assessment

Orientation and Culmination	10
Written Examinations	6
	16

Law and Criminal Procedure

Court Systems	2
Legal Issues in the Use of Force	4
Search Warrants and Court Room Testimony	12
Juvenile Law	2
Civil Process	2
Risk Management and Liability Reduction	4
Laws of Searches, Seizures and Arrest	5
Laws of Interviews and Statements	4
Montana Criminal Codes	8
Montana Traffic Codes	6
Laws of Gambling and Tobacco	2
Prohibitive Conduct	2
POST Council	1
	54

Human Behavior and Social Interaction

History of Law Enforcement	2
The Effective Officer	2
Ethics	8
Winning Attitudes	4
Culture and Diversity	4
Community Policing	2
Interpersonal Communications	6
	28

Patrol Operations

Patrol Tactics	14
Building Searches	4
Active Shooter	4
Vehicle Stops	24
Police Vehicle Operations	44
Youth Gangs	2
Mental Illness and Mental Health First Aid	18
Hazards of Railroads	2
CJIN	2
Report Writing	4
Child Protective Services	2
Outlaw Motorcycle Gangs	2
Patrol Negotiation	4
	126

Investigations

Abuse and Neglect	6
Sex Crimes	8
Child Interviews	2
Drug Endangered Children	2
Domestic Violence	16
Crime Scene Photography	4
Evidence Analysis	8
Crime Scene Management	8
Computer Crimes	2
Dangerous Drugs	6
Criminal Intelligence Systems	2
Motor Vehicle Identification / Fraud	2
Investigative Interviewing	16
	82

Health and Wellness

Diet and Exercise	2
Critical Incident Stress	4
Emotional Survival for Families	2
Physical Fitness (MPAT)	4
	12

Traffic Enforcement

Crash Investigation	4
DUI Detection and Processing	40
Traffic Radar	8
	52

Survival Skills

Firearms	48
Pat Downs and Frisks	2
Defensive Tactics - PPCT	36
Defensive Tactics - Chemical Agents	4
Defensive Tactics - Deadly Encounters	16
Defensive Tactics - Confrontation Simulation	4
	110

TOTAL HOURS**480****480**

**New Business:
Director's Report,
Case Files – Cases opened/closed**



Montana Public Safety Officer Standards and Training Council
Perry Johnson – Executive Director

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Helena, MT 59602

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www.doj.mt.gov/post

August 27, 2014

To: POST Council

From: Perry Johnson
Executive Director

Subject: Closure of Cases

In accordant with ARM 23.13.703(6), this is my written report setting forth the circumstances and resolution of the cases. After consultation with legal counsel and meeting with the Case Status Sub-committee of the POST Council, the following cases have been closed:

2010: One case from 2010 was opened.

10-53 was opened at the recommendation of the Case Status Sub-committee.

2011: No cases from 2011 were closed.

11-12 is the only case remaining from 2011. Case remanded by Supreme Court back to District Court. District Court case is resolved and POST is ready to move forward.

All other cases from calendar year 2011 have been cleared/closed.

2012: One case from 2012 was closed.

12-16 Former Kalispell officer's POST certification was permanently revoked. Officer did not request a hearing.

12-18 Is the only remaining open case from 2012. Pending Federal court (Colstrip officer) complaint resolution.

2013: No cases from 2013 were closed

There are 11 open cases for 2013

2014: Two cases from 2014 were closed

14-08: Closed by recommendation of the Case Status Sub-committee. Complaint did not rise to a level of POST involvement.

14-12: Officer agreed to surrender his POST certificate pursuant to a plea agreement in 2013. Officer's POST certification has been permanently revoked.

There are 5 cases opened for 2014.

Perry Johnson, Executive Director
Montana POST Council

New Business:
Director's Report,
Budget Report

POST COUNCIL Department of Justice Fiscal Year 2014 Budget Report

Percent Time Lapsed of Fiscal Year 2014: **100%**

			2014 Budget	Current Expenses (07/01/13-06/30/2014)	Budget Balance Fiscal Year 14	-
HB2 & HB13	POST Council	61000 Payroll, Longevity, & Benefits	175,724	117,842	57,882	0
		62000 Operating Expenses	89,250	115,770	(26,520)	0
	POST Council Total		264,974	233,611	31,363	0
	POST LEGAL (RST)	62000 Operating Expenses	50,000	50,000	0	0
	POST LEGAL (RST) Total		50,000	50,000	0	0
HB2 & HB13 Total			314,974	283,611	31,363	0
Grand Total			314,974	283,611	31,363	0

Notes:

Comments, Thoughts, Concerns:

**POST COUNCIL
Department of Justice
Fiscal Year 2015 Budget Report**

Percent Time Lapsed of Fiscal Year 2014: 100%

			2015 Budget	Current Expenses (07/01/14-08/27/2014)	Projected Budget Balance Fiscal Year 15	-
HB2 & HB13	POST Council	61 000 Payroll, Longevity, & Benefits	176,260	22,493	153,767	0
		62000 Operating Expenses	89,362	319	89,043	0
	POST Council Total		265,622	22,812	242,810	0
	POST LEGAL (RST)	62000 Operating Expenses	50,000		0	0
	POST LEGAL (RST) Total		50,000	0	0	0
HB2 & HB13 Total			315,622	22,812	242,810	0
Grand Total			315,622	22,812	242,810	0

Notes:

Comments, Thoughts, Concerns:

**New Business:
Director's Report,
Legal Counsel, Legislative Update**

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INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DUTIES OF THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL WITH RESPECT TO CERTIFICATION OF PUBLIC SAFETY OFFICERS; REMOVING REFERENCE TO THE GENERAL EDUCATIONAL DEVELOPMENT TEST; ALLOWING A MENTAL HEALTH PROFESSIONAL ACTING WITHIN THE SCOPE OF THE PROFESSIONAL'S LICENSURE BY THE STATE OF MONTANA TO EXAMINE AND EVALUATE THE MENTAL HEALTH OF A PERSON WHO IS UNDER CONSIDERATION FOR APPOINTMENT AS A PEACE OFFICER; ALLOWING SUBSTITUTION OF A STANDARDIZED MENTAL HEALTH EVALUATION INSTRUMENT EVALUATED BY A MENTAL HEALTH PROFESSIONAL ACTING WITHIN THE SCOPE OF THE PROFESSIONAL'S CERTIFICATION BY ANY STATE FOR THE MENTAL HEALTH EXAMINATION; REQUIRING THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL TO ISSUE A BASIC CERTIFICATE TO A PUBLIC SAFETY OFFICER WHO HAS MET EDUCATIONAL REQUIREMENTS AND SATISFIED A ONE-YEAR PROBATIONARY PERIOD; REQUIRING A PEACE OFFICER WHO IS QUALIFIED TO ATTEND BASIC EQUIVALENCY TO ATTEND BASIC IF THE PEACE OFFICER FAILS BASIC EQUIVALENCY; ESTABLISHING THE PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL AS A CRIMINAL JUSTICE AGENCY FOR PURPOSES OF THE CRIMINAL JUSTICE INFORMATION ACT FOR THE LIMITED PURPOSE OF CERTIFYING OR RECERTIFYING PUBLIC SAFETY OFFICERS, CONDUCTING INVESTIGATIONS INTO ALLEGATIONS OF PUBLIC SAFETY OFFICER MISCONDUCT THAT MAY RESULT IN SUSPENSION OR REVOCATIONS OF A PUBLIC SAFETY OFFICER'S CERTIFICATION, AND CONDUCTING CERTIFICATION SUSPENSION OR REVOCATION PROCEEDINGS; AMENDING SECTIONS 7-32-303 AND 44-4-403, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

SECTION 1. Section 7-32-303, is amended to read:

"Peace officer employment, education, and certification standards -- suspension or revocation -- penalty. (1) For purposes of this section, unless the context clearly indicates

1 otherwise, "peace officer" means a deputy sheriff, undersheriff, police officer, highway patrol
2 officer, fish and game warden, park ranger, campus security officer, or airport police officer.

3 (2) A sheriff of a county, the mayor of a city, a board, a commission, or any other person
4 authorized by law to appoint peace officers in this state may not appoint any person as a peace
5 officer who does not meet the following qualifications plus any additional qualifying standards
6 for employment promulgated by the Montana public safety officer standards and training
7 council established in 2-15-2029:

8 (a) be a citizen of the United States;

9 (b) be at least 18 years of age;

10 (c) be fingerprinted and a search made of the local, state, and national fingerprint files to
11 disclose any criminal record;

12 (d) not have been convicted of a crime for which the person could have been imprisoned in a
13 federal or state penitentiary;

14 (e) be of good moral character, as determined by a thorough background investigation;

15 (f) be a high school graduate or have ~~passed the general educational development test and~~
16 been issued an equivalency certificate by the superintendent of public instruction or by an
17 appropriate issuing agency of another state or of the federal government;

18 (g)(i) be examined by a licensed physician, or for purposes of a mental health evaluation, a
19 person who is licensed by the state under title 37 and acting within the scope of the person's
20 licensure, who is not the applicant's personal physician or licensed mental health professional,
21 appointed by the employing authority to determine if the applicant is free from any mental or
22 physical condition that might adversely affect performance by the applicant of the duties of a
23 peace officer; or

24 (ii) satisfactorily complete the physical examination required by subsection (2)(g)(i) and
25 complete a standardized mental health evaluation instrument determined by the employing
26 authority to be sufficient to examine for any mental health conditions that might adversely
27 affect performance by the applicant of the duties of a peace officer if the instrument is scored
28 by a mental health professional acting within the scope of licensure by any state and the mental
29 health professional finds that the applicant is free from any such mental health condition.

1 (h) successfully complete an oral examination conducted by the appointing authority or its
2 designated representative to demonstrate the possession of communication skills,
3 temperament, motivation, and other characteristics necessary to the accomplishment of the
4 duties and functions of a peace officer; and

5 (i) possess or be eligible for a valid Montana driver's license.

6 (3) At the time of appointment, a peace officer shall take a formal oath of office.

7 (4) Within 10 days of the appointment, termination, resignation, or death of any peace
8 officer, written notice of the event must be given to the Montana public safety officer
9 standards and training council by the employing authority.

10 (5) (a) Except as provided in subsections (5)(b) and (5)(c), it is the duty of an appointing
11 authority to cause each peace officer appointed under its authority to attend and successfully
12 complete, within 1 year of the initial appointment, an appropriate peace officer basic course
13 certified by the Montana public safety officer standards and training council. Any peace officer
14 appointed after September 30, 1983, who fails to meet the minimum requirements as set forth
15 in subsection (2) or who fails to complete the basic course as required by this subsection (5)(a)
16 forfeits the position, authority, and arrest powers accorded a peace officer in this state.

17 (b) A peace officer who has been issued a basic certificate by the Montana public safety
18 officer standards and training council and whose last date of employment as a peace officer
19 was less than 36 months prior to the date of the person's present appointment as a peace
20 officer is not required to fulfill the basic educational requirements of subsection (5)(a). If the
21 peace officer's last date of employment as a peace officer was 36 or more but less than 60
22 months prior to the date of present employment as a peace officer, the peace officer may
23 satisfy the basic educational requirements as set forth in subsection (5)(c).

24 (c) A peace officer referred to in subsection (5)(b) or a peace officer who has completed a
25 basic peace officer's course that is taught by a federal, state, or United States military law
26 enforcement agency and that is reviewed and approved by the Montana public safety officer
27 standards and training council as equivalent with current training in Montana and whose last
28 date of employment as a peace officer or member of the military law enforcement was less
29 than 60 months prior to the date of present appointment as a peace officer may, within 1 year

1 of the peace officer's present employment or initial appointment as a peace officer within this
2 state, satisfy the basic educational requirements by successfully completing a basic equivalency
3 course administered by the Montana law enforcement academy. The prior employment of a
4 member of the military law enforcement must be reviewed and approved by the Montana
5 public safety officer standards and training council. If the peace officer fails the basic
6 equivalency course, the peace officer shall complete the next available appropriate basic
7 equivalency course ~~within 120 days of the date of the failure of the equivalency course.~~

8 (6) The Montana public safety officer standards and training council may extend the 1-year
9 time requirements of subsections (5)(a) and (5)(c) upon the written application of the peace
10 officer and the appointing authority of the officer. The application must explain the
11 circumstances that make the extension necessary. Factors that the council may consider in
12 granting or denying the extension include but are not limited to illness of the peace officer or a
13 member of the peace officer's immediate family, absence of reasonable access to the basic
14 equivalency course, and an unreasonable shortage of personnel within the department. The
15 council may not grant an extension to exceed 180 days.

16 (7) A peace officer who has successfully met the employment standards and qualifications and
17 the educational requirements of this section and who has completed a 1-year probationary
18 term of employment must, ~~upon application to the Montana public safety officer standards and~~
19 ~~training council,~~ be issued a basic certificate by the council, certifying that the peace officer has
20 met all the basic qualifying peace officer standards of this state.

21 (8) It is unlawful for a person whose certification as a peace officer, detention officer, or
22 detention center administrator has been revoked or suspended by the Montana public safety
23 officer standards and training council to act as a peace officer, detention officer, or detention
24 center administrator. A person convicted of violating this subsection is guilty of a misdemeanor,
25 punishable by a term of imprisonment not to exceed 6 months in the county jail or by a fine not
26 to exceed \$500, or both."

27 **SECTION 2.** Section 44-4-403 is amended to read as follows:

**New Business:
Director's Report,
Approval/Denial of
Certificate Requests**



PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

Pending Certification Report

Name	Instructor Type	Issue Date
BAS Basic		
4999 Wood, Tyler	HELENA POLICE DEPARTMENT	09/03/2014
5000 Hamilton, Chris M	FISH, WILDLIFE AND PARKS	09/03/2014
5001 Struble, Brian T	HELENA POLICE DEPARTMENT	09/03/2014
5002 Smith, Cody W	MONTANA HIGHWAY PATROL	09/03/2014
5003 Slusher, Timothy A	FLATHEAD COUNTY SHERIFF'S OFFICE	09/03/2014
5004 Simpson, George	LAKE COUNTY SHERIFF'S OFFICE	09/03/2014
5005 Lucas, Kyle B	CONRAD POLICE DEPARTMENT	09/03/2014
5006 Horrocks, Joe A	DILLON POLICE DEPARTMENT	09/03/2014
5007 Call, Charles R	PARK COUNTY SHERIFF'S OFFICE	09/03/2014
5008 Stefani, Guy M	GOLDEN VALLEY COUNTY SHERIFF'S OFFIC	09/03/2014
5009 Strandbakke, Cody S	GLACIER COUNTY SHERIFF'S OFFICE	09/03/2014
5010 Wofford, Tod	RAVALLI COUNTY SHERIFF'S OFFICE	09/03/2014
5011 Wafstet, Travis W	MISSOULA COUNTY SHERIFF'S OFFICE	09/03/2014
5012 Karren, Ryan C	FISH, WILDLIFE AND PARKS	09/03/2014
5013 Lee, Michael F	BOZEMAN POLICE DEPARTMENT	09/03/2014
5014 King, Scott S	MISSOULA COUNTY SHERIFF'S OFFICE	09/03/2014

Total **BAS** Certificates **16**

INT	Intermediate		
0	Auch, Jacob A	RAVALLI COUNTY SHERIFF'S OFFICE	09/03/2014
0	Barcus, Glendon	MONTANA HIGHWAY PATROL	09/03/2014
0	Colvin, Michael A	BIG HORN COUNTY SHERIFF'S OFFICE	09/03/2014
0	Dilley, Otis R	GREAT FALLS POLICE DEPARTMENT	09/03/2014
0	Emanuel, Andrew W	LIVINGSTON POLICE DEPARTMENT	09/03/2014
0	Enos, Joe J	RED LODGE POLICE DEPARTMENT	09/03/2014
0	Ernsberger, Steve W	ANACONDA-DEER LODGE LAW ENFORCEME	09/03/2014
0	Fetveit, Chad E	KALISPELL POLICE DEPARTMENT	09/03/2014
0	Foster, Seth M	BILLINGS POLICE DEPARTMENT	09/03/2014
0	Frick, Aaron T	GREAT FALLS POLICE DEPARTMENT	09/03/2014
0	Karren, Ryan C	FISH, WILDLIFE AND PARKS	09/03/2014
0	Lee, Darlene L	MONTANA HIGHWAY PATROL	09/03/2014
0	Lee, Michael F	BOZEMAN POLICE DEPARTMENT	09/03/2014
0	Massie, David K	KALISPELL POLICE DEPARTMENT	09/03/2014
0	Moore, Roland	BOZEMAN POLICE DEPARTMENT	09/03/2014
0	Ogden, Jonathan	BOZEMAN POLICE DEPARTMENT	09/03/2014
0	Ostberg, Shawn R	TETON COUNTY SHERIFF'S OFFICE	09/03/2014
0	Owens, John A	UNASSIGNED	09/03/2014
0	Petty, Noal G	HELENA POLICE DEPARTMENT	09/03/2014
0	Reisenauer, Kent R	ANACONDA-DEER LODGE LAW ENFORCEME	09/03/2014
0	Rexin, Trey J	HAMILTON POLICE DEPARTMENT	09/03/2014
0	Roundtree, Angela R	MSU POLICE DEPARTMENT/BOZEMAN	09/03/2014
0	Schalin, Arthur T	GREAT FALLS POLICE DEPARTMENT	09/03/2014
0	Sherman, Richard L	HAMILTON POLICE DEPARTMENT	09/03/2014
0	Silvan, Shawn P	MONTANA HIGHWAY PATROL	09/03/2014
0	Sinness, Christopher	BOZEMAN POLICE DEPARTMENT	09/03/2014



PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

Pending Certification Report

Name	Instructor Type	Issue Date
0 Sprague, Charles P	BELGRADE POLICE DEPARTMENT	09/03/2014
0 Stanhope, Michael L	TETON COUNTY SHERIFF'S OFFICE	09/03/2014
0 Tymofichuk, Christopher D	BUTTE/SILVER BOW LAW ENFORCEMENT	09/03/2014
0 Wenzel, Seth M	BROADWATER COUNTY SHERIFF'S OFFICE	09/03/2014
0 Willett, Mitchell L	MONTANA HIGHWAY PATROL	09/03/2014
0 Wofford, Tod	RAVALLI COUNTY SHERIFF'S OFFICE	09/03/2014
0 Woodward, Mark T	MISSOULA POLICE DEPARTMENT	09/03/2014

Total **INT** Certificates **33**

ADV Advanced

0 Barcus, Glendon	MONTANA HIGHWAY PATROL	09/03/2014
0 Green, Benjamin	BOZEMAN POLICE DEPARTMENT	09/03/2014
0 Grove, Mark G	TETON COUNTY SHERIFF'S OFFICE	09/03/2014
0 Hernandez, Mark	GALLATIN COUNTY SHERIFF'S OFFICE	09/03/2014
0 Hughes, Alan R	LEWIS AND CLARK COUNTY SHERIFF'S OFFI	09/03/2014
0 Jessop, Jesse D	RAVALLI COUNTY SHERIFF'S OFFICE	09/03/2014
0 Juhl, Valerie V	YELLOWSTONE COUNTY SHERIFF'S OFFICE	09/03/2014
0 Kilbreath, Phillip P	FISH, WILDLIFE AND PARKS	09/03/2014
0 King, Scott S	MISSOULA COUNTY SHERIFF'S OFFICE	09/03/2014
0 Korst, Jason A	CONRAD POLICE DEPARTMENT	09/03/2014
0 Lee, Darlene L	MONTANA HIGHWAY PATROL	09/03/2014
0 Lee, Michael F	BOZEMAN POLICE DEPARTMENT	09/03/2014
0 Lee, Michael K	FISH, WILDLIFE AND PARKS	09/03/2014
0 McCormick, Scott	BOZEMAN POLICE DEPARTMENT	09/03/2014
0 Metcalf, Kevin R	PHILLIPS COUNTY SHERIFF'S OFFICE	09/03/2014
0 Moon, David J	MONTANA HIGHWAY PATROL	09/03/2014
0 Murphy, Chad J	FISH, WILDLIFE AND PARKS	09/03/2014
0 Reisenauer, Kent R	ANACONDA-DEER LODGE LAW ENFORCEME	09/03/2014
0 Schalin, Arthur T	GREAT FALLS POLICE DEPARTMENT	09/03/2014
0 Smith, Randy E	STILLWATER COUNTY SHERIFF'S OFFICE	09/03/2014
0 Sorensen, Shane P	GREAT FALLS POLICE DEPARTMENT	09/03/2014
0 Sprague, Charles P	BELGRADE POLICE DEPARTMENT	09/03/2014
0 Stonesifer, Matthew R	MISSOULA POLICE DEPARTMENT	09/03/2014
0 Tymofichuk, Christopher D	BUTTE/SILVER BOW LAW ENFORCEMENT	09/03/2014
0 Waldo, Jeremy J	DOJ/DIVISION OF CRIMINAL INVESTIGATION	09/03/2014
0 Weber, Robert H	GLASGOW POLICE DEPARTMENT	09/03/2014
0 Woodward, Mark T	MISSOULA POLICE DEPARTMENT	09/03/2014

Total **ADV** Certificates **27**

SUP Supervisory

0 Beehler, Anton J	MONTANA HIGHWAY PATROL	09/03/2014
0 Brodie, Scott T	MISSOULA POLICE DEPARTMENT	09/03/2014
0 Bullock, Bill E	MONTANA HIGHWAY PATROL	09/03/2014
0 Dicken, Jace R	MISSOULA COUNTY SHERIFF'S OFFICE	09/03/2014
0 Ernsberger, Steve V	ANACONDA-DEER LODGE LAW ENFORCEME	09/03/2014
0 Hard, Wayne L	LIVINGSTON POLICE DEPARTMENT	09/03/2014



PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

Pending Certification Report

Table with 4 columns: Name, Instructor Type, Issue Date. Lists 10 individuals with their respective agencies and certification dates.

Total SUP Certificates 16

Table with 4 columns: COM, Command, Name, Instructor Type, Issue Date. Lists 10 individuals under the COM category with their respective agencies and certification dates.

Total COM Certificates 10

Table with 4 columns: ADM, Administrative, Name, Instructor Type, Issue Date. Lists 7 individuals under the ADM category with their respective agencies and certification dates.

Total ADM Certificates 6

Table with 4 columns: DTB, Detention/Corrections Basic, Name, Instructor Type, Issue Date. Lists 12 individuals under the DTB category with their respective agencies and certification dates.



PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

Pending Certification Report

Name	Instructor Type	Issue Date
0 Bristow, Sandra J	MONTANA STATE PRISON	09/03/2014
0 Bruha, Clay E	MONTANA STATE PRISON	09/03/2014
0 Buckler, Brian C	MONTANA STATE PRISON	09/03/2014
0 Buresh, Mike S	MONTANA STATE PRISON	09/03/2014
0 Bury, Michael J	MONTANA STATE PRISON	09/03/2014
0 Cardin, Trevor W	MONTANA STATE PRISON	09/03/2014
0 Casagrande, Cory D	MONTANA STATE PRISON	09/03/2014
0 Cease, Jeffrey T	MONTANA STATE PRISON	09/03/2014
0 Certain, Todd	MONTANA STATE WOMEN'S PRISON	09/03/2014
0 Colon, Chrystal L	UNASSIGNED	09/03/2014
0 Corn, Christopher R	FERGUS COUNTY SHERIFF'S OFFICE	09/03/2014
0 Cotton, Anthony V	MONTANA STATE PRISON	09/03/2014
0 Croft, Noel D	MONTANA STATE PRISON	09/03/2014
0 Daly, James P	MONTANA STATE PRISON	09/03/2014
0 Duggan, Michael D	MONTANA STATE PRISON	09/03/2014
0 Early, Melissa E	MONTANA STATE PRISON	09/03/2014
0 Einerson, Tim H	MONTANA STATE PRISON	09/03/2014
0 Elmore, Thomas F	MONTANA STATE PRISON	09/03/2014
0 Farmer, Steven D	MONTANA STATE PRISON	09/03/2014
0 Forster, Jesse G	MONTANA STATE PRISON	09/03/2014
0 Fosness, Daniel J	MONTANA STATE PRISON	09/03/2014
0 Frantz, Artist C	MONTANA STATE PRISON	09/03/2014
0 Frazer, Gregory L	MONTANA STATE PRISON	09/03/2014
0 Galle, Glen R	MONTANA STATE PRISON	09/03/2014
0 Galloway, Janet L	MONTANA STATE PRISON	09/03/2014
0 Galloway, Patrick M	MONTANA STATE PRISON	09/03/2014
0 Garland, Douglas O	MONTANA STATE PRISON	09/03/2014
0 Gates, Casey L	MONTANA STATE PRISON	09/03/2014
0 Gonder, Candice M	MONTANA STATE PRISON	09/03/2014
0 Good, Gerald G	MONTANA STATE PRISON	09/03/2014
0 Griswold, Lucas R	MONTANA STATE PRISON	09/03/2014
0 Gwin, Francis G	MONTANA STATE PRISON	09/03/2014
0 Haas, William R	MONTANA STATE PRISON	09/03/2014
0 Hall, Steven L	MONTANA STATE PRISON	09/03/2014
0 Hanifen, Timothy F	MONTANA STATE PRISON	09/03/2014
0 Harmon, Anthony (Tony)	MONTANA STATE PRISON	09/03/2014
0 Heaton, Christopher B	MONTANA STATE PRISON	09/03/2014
0 Hebert, Mike	MONTANA STATE PRISON	09/03/2014
0 Helfrich, Michael J	MONTANA STATE PRISON	09/03/2014
0 Henry, Jason D	MISSOULA ADULT DETENTION FACILITY	09/03/2014
0 Herrin, Kyle A	MONTANA STATE PRISON	09/03/2014
0 Hogart, William P	MONTANA STATE PRISON	09/03/2014
0 Huber, William J	MONTANA STATE PRISON	09/03/2014
0 Hunt, Darcey O	MONTANA STATE PRISON	09/03/2014
0 Ingraham, Dale S	MONTANA STATE PRISON	09/03/2014
0 Johnson, Brent C	YELLOWSTONE COUNTY DETENTION	09/03/2014
0 Jones, David R	MONTANA STATE PRISON	09/03/2014



PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

Pending Certification Report

Name	Instructor Type	Issue Date
0 King, John L	MONTANA STATE PRISON	09/03/2014
0 LaBoy, Avery M	MONTANA STATE PRISON	09/03/2014
0 Loomis, Trisha A	MONTANA STATE PRISON	09/03/2014
0 Lovett, James T	MONTANA STATE PRISON	09/03/2014
0 Luker, Floyd L	MONTANA STATE PRISON	09/03/2014
0 MacLeod, Lorie	MONTANA STATE PRISON	09/03/2014
0 Maloughney, John W	MONTANA STATE PRISON	09/03/2014
0 Mathon, Michael R	MONTANA STATE PRISON	09/03/2014
0 Matter, Ralph A	MONTANA STATE PRISON	09/03/2014
0 May, John C	MONTANA STATE PRISON	09/03/2014
0 McDonald, Don T	MONTANA STATE PRISON	09/03/2014
0 Medina, David L	MONTANA STATE PRISON	09/03/2014
0 Mendenhall (Biddlec), Ladonn	MONTANA STATE PRISON	09/03/2014
0 Miller, William	MONTANA STATE PRISON	09/03/2014
0 Montez, Mathew R	MONTANA STATE PRISON	09/03/2014
0 Moody, Jeremy S	MONTANA STATE PRISON	09/03/2014
0 Odden, Shawn P	MONTANA STATE PRISON	09/03/2014
0 Olson, Warren L	MONTANA STATE PRISON	09/03/2014
0 Outland, William B	MONTANA STATE PRISON	09/03/2014
0 Palmerton, Gary D	MONTANA STATE PRISON	09/03/2014
0 Patterson, Quint	MONTANA STATE WOMEN'S PRISON	09/03/2014
0 Paull, Melvin D	MONTANA STATE PRISON	09/03/2014
0 Paull, Velma I	MONTANA STATE PRISON	09/03/2014
0 Pica, Marcos	MONTANA STATE PRISON	09/03/2014
0 Porter, Travis K	MONTANA STATE PRISON	09/03/2014
0 Price, Paul A	MONTANA STATE PRISON	09/03/2014
0 Ray, Shannon E	MONTANA STATE PRISON	09/03/2014
0 Rowling, Rae A	MONTANA STATE PRISON	09/03/2014
0 Sanderson, Joe C	MONTANA STATE PRISON	09/03/2014
0 Saville, Matthew J	MONTANA STATE PRISON	09/03/2014
0 Schillo, Daniel J	MONTANA STATE PRISON	09/03/2014
0 Schlosser, Scott S	MONTANA STATE PRISON	09/03/2014
0 Shindurling, Ashley S	MONTANA STATE PRISON	09/03/2014
0 Shroyer, Renee L	MONTANA STATE PRISON	09/03/2014
0 Shupert, Benjamin J	MONTANA STATE PRISON	09/03/2014
0 Skocilich, Keri S	MONTANA STATE PRISON	09/03/2014
0 Slaughtner, Francis	MONTANA STATE PRISON	09/03/2014
0 Smith, Douglas E	MONTANA STATE PRISON	09/03/2014
0 Steyh, Ronald J	MONTANA STATE PRISON	09/03/2014
0 Stockton, Katie	MONTANA STATE WOMEN'S PRISON	09/03/2014
0 Telling, Luke W	MONTANA STATE PRISON	09/03/2014
0 Titeca, Rebekah J	MONTANA STATE PRISON	09/03/2014
0 Trudeau, Sarah K	MONTANA STATE PRISON	09/03/2014
0 Tschacher, Stefani	MONTANA STATE WOMEN'S PRISON	09/03/2014
0 Ward, James R	MONTANA STATE PRISON	09/03/2014
0 Weber, William G	MONTANA STATE PRISON	09/03/2014
0 Wiedenmeyer, Colter M	FLATHEAD COUNTY SHERIFF'S OFFICE	09/03/2014



PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

Pending Certification Report

Name	Instructor Type	Issue Date
0 Wigert, Daniel J	MONTANA STATE PRISON	09/03/2014
0 Willis, Benjamin L	MONTANA STATE PRISON	09/03/2014
0 Wilson, Hugh T	MONTANA STATE PRISON	09/03/2014
0 Zimmerman-Reid, Zachary S	MONTANA STATE PRISON	09/03/2014

Total **DTB** Certificates **108**

DTI Detention/Corrections Intermediate

448 Kowalski, Janine M	MISSOULA JUVENILE DETENTION FACILITY	09/03/2014
449 Stockton, Katie	MONTANA STATE WOMEN'S PRISON	09/03/2014
450 Zabel, James E	YELLOWSTONE COUNTY DETENTION	09/03/2014
451 Bomgardner, Leah	MONTANA STATE WOMEN'S PRISON	09/03/2014
452 Andersen (Root), Jennifer L	FLATHEAD COUNTY SHERIFF'S OFFICE	09/03/2014
453 Ferguson, Scott T	LEWIS AND CLARK COUNTY SHERIFF'S OFFI	09/03/2014

Total **DTI** Certificates **6**

DTA Detention/Corrections Advanced

0 Ferguson, Scott T	LEWIS AND CLARK COUNTY SHERIFF'S OFFI	09/03/2014
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Total **DTA** Certificates **1**

DTS Detention/Corrections Supervisory

0 Ferguson, Scott T	LEWIS AND CLARK COUNTY SHERIFF'S OFFI	09/03/2014
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Total **DTS** Certificates **1**

DIS Public Safety Communicators Basic

0 Behar, Genny R	GALLATIN COUNTY 911 CTR.	09/03/2014
0 Ernsberger, Susan J	ANACONDA-DEER LODGE LAW ENFORCEME	09/03/2014
0 Hedstrom, Janie	HAVRE POLICE DEPARTMENT	09/03/2014
0 Kadrmas, Brenda J	HAVRE POLICE DEPARTMENT	09/03/2014
0 Lee, Stephanie L	GALLATIN COUNTY 911 CTR.	09/03/2014
0 McKay, Karley	HAVRE POLICE DEPARTMENT	09/03/2014
0 Tripp, Monica N	GALLATIN COUNTY 911 CTR.	09/03/2014

Total **DIS** Certificates **7**

DIN Public Safety Communicators Intermediate

0 Ernsberger, Susan J	ANACONDA-DEER LODGE LAW ENFORCEME	09/03/2014
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Total **DIN** Certificates **1**

MCS Motor Carrier Services Basic

0 Hicks, Steve P	DEPT OF HIGHWAYS/MOTOR CARRIER SERV	09/03/2014
0 Larson, Jonathan Q	DEPT OF HIGHWAYS/MOTOR CARRIER SERV	09/03/2014
0 Wade, Adam	DEPT OF HIGHWAYS/MOTOR CARRIER SERV	09/03/2014
0 Wegner, Lydia A	DEPT OF HIGHWAYS/MOTOR CARRIER SERV	09/03/2014



PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

Pending Certification Report

Name	Instructor Type	Issue Date
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Total MCS Certificates 4

APP Adult Probation and Parole Basic

0	Anderson, Kay H	PROBATION & PAROLE ADULT	09/03/2014
0	Baker, Rae M	PROBATION & PAROLE ADULT	09/03/2014
0	Bye, Wayne E	PROBATION & PAROLE ADULT	09/03/2014
0	Calvi, Wendy S	PROBATION & PAROLE ADULT	09/03/2014
0	Hinzman, Kyle C	MONTANA DEPARTMENT OF CORRECTIONS	09/03/2014
0	Johnston, Casey J	PROBATION & PAROLE ADULT	09/03/2014
0	Moser, Darrin R	PROBATION & PAROLE ADULT	09/03/2014
0	Peter, Walter B	PROBATION & PAROLE ADULT	09/03/2014
0	Tadlock, Eric J	PROBATION & PAROLE ADULT	09/03/2014
0	Vanskyock, Sandra R	PROBATION & PAROLE ADULT	09/03/2014

Total APP Certificates 10

INS Instructors

4604	Adorni, Larry F	MONTANA HIGHWAY PATROL	BELOW 100	09/03/2014
4605	Erickson, Devin W	MISSOULA POLICE DEPARTMENT	DEFENSIVE TACTICS	09/03/2014
4606	Stevenson, Ricky A	MISSOULA POLICE DEPARTMENT	SWAT PRECISION MARKSMAN	09/03/2014
4607	LaBaty Jr., Michael W	HAVRE POLICE DEPARTMENT	TASER USER CERTIFICATION	09/03/2014
4608	Nash, Katherine M	BILLINGS POLICE DEPARTMENT	DOMESTIC VIOLENCE INVESTI	09/03/2014
4609	Proctor, Tim F	MONTANA HIGHWAY PATROL	FIREARMS - PATROL CARBINE	09/03/2014
4610	Proctor, Tim F	MONTANA HIGHWAY PATROL	TASER	09/03/2014
4611	McCarthy, Michael	MISSOULA POLICE DEPARTMENT	PROTESTER DEVICES	09/03/2014
4612	Volinkaty, Joshua J	MISSOULA POLICE DEPARTMENT	DUI INVESTIGATIONS AND APP	09/03/2014
4613	Stevenson, Ricky A	MISSOULA POLICE DEPARTMENT	FIREARMS INSTRUCTION (HAN	09/03/2014
4614	Rose, Collin D	MISSOULA POLICE DEPARTMENT	FIREARMS	09/03/2014
4615	Rose, Collin D	MISSOULA POLICE DEPARTMENT	SWAT	09/03/2014
4616	Kelly, Paul T	MISSOULA POLICE DEPARTMENT	PRIMARY FIREARMS INSTRUC	09/03/2014
4617	Stratman, Ryan E	GALLATIN COUNTY SHERIFF'S OFFICE	FIREARMS, PISTOL	09/03/2014
4618	Stratman, Ryan E	GALLATIN COUNTY SHERIFF'S OFFICE	FIREARMS, SHOTGUN	09/03/2014
4619	Stratman, Ryan E	GALLATIN COUNTY SHERIFF'S OFFICE	FIREARMS, PISTOL	09/03/2014
4620	Lavadure, Joseph D	DEPT OF HIGHWAYS/MOTOR CARRIER SERV	MCS QUAL-1-13 HANDGUN	09/03/2014
4621	Kent, Garrett C	MONTANA STATE PRISON	MPAT PROCTOR	09/03/2014
4622	Frantz, Shane D	GALLATIN COUNTY SHERIFF'S OFFICE	FIREARMS-INITIAL INSTRUCTIO	09/03/2014
4623	Frantz, Shane D	GALLATIN COUNTY SHERIFF'S OFFICE	FIREARMS-INITIAL INSTRUCTIO	09/03/2014
4624	Bugni, Daniel J	DEPARTMENT OF LIVESTOCK	FIREARMS INSTRUCTOR	09/03/2014
4625	Petty, Noal G	HELENA POLICE DEPARTMENT	VERBAL JUDO	09/03/2014
4626	Petersen, Katherine R	MISSOULA POLICE DEPARTMENT	TASER	09/03/2014
4627	Kamerer, Michael K	MISSOULA POLICE DEPARTMENT	HELICOPTER OPERATIONS	09/03/2014
4628	Slater, Benjamin A	MISSOULA POLICE DEPARTMENT	CHEMICAL MUNITIONS	09/03/2014
4629	Erbacher, Patrick T	MISSOULA POLICE DEPARTMENT	PROTESTER DEVICES: SLEEP	09/03/2014
4630	Ludemann, Ryan M	MISSOULA POLICE DEPARTMENT	BASIC POLICE MOTORCYCLE	09/03/2014
4631	Stonesifer, Matthew R	MISSOULA POLICE DEPARTMENT	URBAN SNIPER HIDE CONSTR	09/03/2014
4632	Lester, Robert L	YELLOWSTONE COUNTY SHERIFF'S OFFICE	STANDARD FIELD SOBRIETY T	09/03/2014
4633	Robinson, Brian R	LEWIS AND CLARK COUNTY SHERIFF'S OFFI	OC SPRAY, SPECIALTY IMPAC	09/03/2014



PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

Pending Certification Report

Name	Instructor Type	Issue Date
4634 Robinson, Brian R	LEWIS AND CLARK COUNTY SHERIFF'S OFFI FIREARMS	09/03/2014
4635 Hartman, Mark C	MONTANA STATE WOMEN'S PRISON CPI NON-VIOLENT CRISIS INTE	09/03/2014
4636 Dicken, Jace R	MISSOULA COUNTY SHERIFF'S OFFICE BASIC FIREARMS INSTRUCTIO	09/03/2014
4637 Adkins, Kevin	DEPT OF HIGHWAYS/MOTOR CARRIER SERV NORTH AMERICAN STANDARD	09/03/2014
4638 Adkins, Kevin	DEPT OF HIGHWAYS/MOTOR CARRIER SERV NORTH AMERICAN STANDARD	09/03/2014
4639 Painter, Thomas M	MONTANA STATE WOMEN'S PRISON PPCT/DEFENSIVE TACTICS (W	09/03/2014
4640 Painter, Thomas M	MONTANA STATE WOMEN'S PRISON FIRST AID/AED/BLOOD BORNE	09/03/2014
4641 Brown, Aaron C	FLATHEAD COUNTY SHERIFF'S OFFICE FIREARMS, HANDGUN	09/03/2014
4642 Brown, Aaron C	FLATHEAD COUNTY SHERIFF'S OFFICE FIREARMS, SHOTGUN	09/03/2014
4643 Auch, Jacob A	RAVALLI COUNTY SHERIFF'S OFFICE PPCT DEFENSIVE TACTICS	09/03/2014
4644 Rosipal, Robert S	CASCADE COUNTY SHERIFF'S OFFICE BASIC CORONER	09/03/2014
4645 Sommers, Brian S	FISH, WILDLIFE AND PARKS WILDLIFE HUMAN ATTACK RES	09/03/2014
4646 Newell, Scott A	MISSOULA COUNTY SHERIFF'S OFFICE FIREARMS INSTRUCTOR	09/03/2014
4647 Muri, Troy R	MONTANA HIGHWAY PATROL CRIMINAL INTERDICTION	09/03/2014
4648 Twist, Mark L	RAVALLI COUNTY SHERIFF'S OFFICE FIREARMS - TRAFFIC ENFORC	09/03/2014
4649 Twist, Mark L	RAVALLI COUNTY SHERIFF'S OFFICE FIREARMS - PISTOL AND PATR	09/03/2014
4650 Hazelton, Shawn P	MONTANA HIGHWAY PATROL TECHNICAL CRASH INVESTIGA	09/03/2014
4651 Marble, James R	STEVENSVILLE POLICE DEPARTMENT BASIC HANDGUN	09/03/2014
4652 Marble, James R	STEVENSVILLE POLICE DEPARTMENT BASIC BEGINNER FIREARMS 1,	09/03/2014
4653 Clark, Martin L	DEPARTMENT OF LIVESTOCK FIREARMS - PISTOL AND SHOT	09/03/2014
4654 Wall, Ted L	DEPARTMENT OF LIVESTOCK FIREARMS INSTRUCTOR;: HAN	09/03/2014
4655 Christoferson, Russell R	DEPT OF HIGHWAYS/MOTOR CARRIER SERV NORTH AMERICAN STANDARD	09/03/2014
4656 Christoferson, Russell R	DEPT OF HIGHWAYS/MOTOR CARRIER SERV NORTH AMERICAN STANDARD	09/03/2014
4657 Hust, Troy D	MONTANA STATE WOMEN'S PRISON PPCT/DEFENSIVE TACTICS (W	09/03/2014
4658 Hust, Troy D	MONTANA STATE WOMEN'S PRISON FIRST AID/AED/BLOOD BORNE	09/03/2014

Total INS Certificates 55



PUBLIC SAFETY OFFICER STANDARDS AND TRAINING COUNCIL

Pending Certification Report

Name	Type	Number	Instructor Type	Issue Date
MONTANA HIGHWAY PATROL				
Smalley, Shawn B	SUP	2746		08/21/2014

**New Business:
Director's Report,
Approval/Denial of
Extension Requests**



Montana Public Safety Officer Standards and Training Council
Perry Johnson – Executive Director

2260 Sierra Road East
Helena, MT 59602

Phone: (406) 444-9975
Fax: (406) 444-9978

www.doj.mt.gov/post

Extension Requests

Montana POST Council Meeting
September 3, 2014

- 1. Scott Swain – Detention Officer, Roosevelt County Sheriff's Office**
Melvin Clark has sent an extension request for Officer Swain to attend CDOB. Officer Swain was hired on January 1, 2014. Due to shortages in personnel, the Roosevelt County Sheriff's Office is unable to send him to basic by January 1, 2015. Melvin Clark has requested a 6-month (180-day) extension to send Officer Swain to CDOB to allow them time to hire and train more personnel, which would mean that he would have to attend basic by June 1, 2015.
- 2. Darci Chylik – Public Safety Communicator, Chouteau County Sheriff's Office**
Kimberly Burdick, Communications Manager sent an extension request for Ms. Chylik to attend PSC Basic. Ms. Chylik was hired on November 7, 2013. She was scheduled to go to the PSC Basic from November 3-7, 2014. Due to scheduling conflicts, MLEA had to reschedule PSC Basic to December 1-5, 2014. Kim Burdick has requested an extension of approximately one month to send Ms. Chylik to PSC Basic in December.

Perry Johnson, Executive Director
Montana POST Council

**New Business:
Director's Report,
Approval/Denial of
Equivalency Requests**



Montana Public Safety Officer Standards and Training Council
Perry Johnson – Executive Director

2260 Sierra Road East
Helena, MT 59602

Phone: (406) 444-9975
Fax: (406) 444-9978

<https://dojmt.gov/post/>

Basic Equivalency Requests

- 1. Terry Parker – Police Officer, Livingston Police Department**
Dale Johnson, Assistant Chief of Police sent a request for reciprocity and requested that Officer Parker be allowed to attend the Legal Equivalency course. Officer Parker attended Georgia's 240 hour Basic and received his basic certification on 8/8/96. He worked in law enforcement in Georgia for about 15 out of the past 23 years, most recently working at the Tallapoosa Police Department from November of 2004 to July of 2014. During his 15 years of law enforcement work, he obtained an additional 1,198 hours of training. Officer Parker was hired by the Livingston Police Department in July, 2014.
- 2. Jason Jones – Deputy Sheriff, Ravalli County Sheriff's Office**
Steve Holton, Undersheriff sent a request for reciprocity for Deputy Jones and requested that he be allowed to attend the Legal Equivalency course. Deputy Jones became certified as a law enforcement officer in the state of Idaho in August, 2012, after attending and completing the 632.5-hour basic law enforcement course there. He was employed as a police officer with Sandpoint Police Department from February of 2012 to March of 2014; until accepting a position with the Ravalli County Sheriff's Office in March, 2014.
- 3. Edward Tanzosh – Trooper, Montana Highway Patrol**
Lt. Lawrence Irwin sent a request for reciprocity for Trooper Tanzosh and requested that he be allowed to attend the Legal Equivalency course. Trooper Tanzosh became certified as a law enforcement officer in the state of Alaska in July of 2007, after attending and completing the 999-hour basic law enforcement course there. He was hired as a Patrol Officer at the Anchorage Police Department in February of 2006 and continues to work there as a Senior Patrol Officer. He received a conditional offer of employment from the Montana Highway Patrol.
- 4. Jeffrey Parks – Police Officer, Great Falls Police Department**
Sgt. Bryan Slavik sent a request for reciprocity for Officer Parks and requested that he be allowed to attend the Legal Equivalency course. Officer Parks became certified as a law enforcement officer in the state of Iowa in December of 1999 after attending and completing the 480-hour law enforcement basic program there. He was employed as a deputy sheriff at the Linn County Sheriff's Office from June of 1999 to December of 2012. He was hired by the Great Falls Police Department on July 30, 2014.
- 5. Dean FV DuVall, III – Deputy Sheriff, Park County Sheriff's Office**
Park County Sheriff M. Allan Lutes sent a request for reciprocity and requested that Deputy DuVall be allowed to attend the Legal Equivalency course. Deputy DuVall became certified as a law enforcement officer in the state of Michigan in May of 2007

after attending and completing the 711-hour law enforcement basic program there. He was employed as a deputy sheriff at the Calhoun County Sheriff's Office from May of 2007 to July of 2014. He was hired by the Park County Sheriff's Office in July of 2014.

6. Ted Tompkins – Detention Officer, Sanders County Sheriff's Office

Lt. Shawna Chenoweth sent a request for reciprocity for Officer Tompkins and requested that he be allowed to challenge CDOB. Officer Tompkins did not become certified as a detention officer because the state of Alabama does not certify detention officers, as confirmed by the Alabama POST Commission. He has received the following training:

- Freeze + P, unknown hours;
- 80 hours of Jail Management;
- Dräger Alcotest 7110 MKIII certification, unknown hours;
- Taser® X26 certification, unknown hours;
- 20 hours of Inmate Risk and Behavior Management;
- Monadnock Defensive Tactics System Basic Course, unknown hours;
- 8-hour Handheld Chemical Sprays Instructor Course;
- 10 hours of DOC Classification, Mental Health, Safe Sex in Jail;
- Interpersonal Communication Skills with Correctional Offenders Courses 1-3, Moral Leadership and Development, and Establishing the Learning Organization, by the National Institute of Corrections, unknown hours;
- 10 hours of Drugs and Usage, Identifying Usage, and Proper Disposal;
- 2-hour Sovereign Citizen Awareness Course;
- 18 hours of Gangs, Protocol for Sex Offender Release & Tracking, Use of Bath Salts, and Use of Force; the PPCT Defensive Tactics Course;
- a 10-hour training on NSA Guidelines, is your Jail Constitutionally Safe, Biometric in Law Enforcement is more than fingerprints, Law Enforcement/Corrections Compliance with the Office of Juvenile Justice & Delinquency Prevention;
- 20 hours of Leadership Skills for Challenging Times;
- 16 hours in Documenting the Use of Force;
- a 19-hour training in Healthcare, PREA, Utilizing Prisoner Grievance Systems, Adoption Implementation of Policies & Procedures, Proactive Approach Against Administrative Liability, and Gangs & Jails;
- 6 hours of Trial Preparation and Testimony;
- an 18-hour training in Evacuation, Mental Health Use of Force in Jails, and Legal Guidelines.

The trainings for which the number of hours are documented total 237 hours. Officer Tompkins was employed as a detention officer with the Morgan County Sheriff's Department from 2002 to October of 2013, when he began working for the Sanders County Sheriff's Office.

7. Benjamin Womelsdorf – Criminal Investigator, Montana Fish, Wildlife & Parks

CIS Supervisor J.D. Douglas sent a request for reciprocity for Investigator Womelsdorf and requested that he be allowed to attend the Legal Equivalency course. Investigator Womelsdorf became certified as a law enforcement officer in the state of Kansas in November of 2008, after attending and completing the 560-hour basic law enforcement course there. He was employed as a Game Warden and K9 Handler for the Kansas Department of Wildlife and Parks from June of 2008 through August of 2014. He received a conditional offer of employment from Montana Fish, Wildlife & Parks.

- 8. Steven Hibler – Chief of Police, Red Lodge Police Department**
Chief Hibler sent a request for reciprocity and requested that he be allowed to attend the Legal Equivalency course. Chief Hibler became certified as a law enforcement officer in the state of Indiana in December of 1983 after attending and completing the 680.5-hour law enforcement basic program there. He was hired as a Trooper at the Indiana State Police in 1983, and he remained employed there until he retired in July of 2012 as an Assistant District Commander. He was hired by the Great Falls Police Department on July 30, 2014.
- 9. Bert Olson – Police Officer, Fairview Police Department**
Chief Cal Seadeek sent a request for Officer Olson to attend the Legal Equivalency course. Officer Olson attended a California POST-Certified, 1,207-hour Basic with an emphasis on fish and game in 2011. Montana POST staff were not able to obtain additional information on this officer from California POST without a release of information. As soon as a release is received, staff will obtain the information. Officer Olson was hired by the Fairview Police Department in May, 2014.
- 10. John Ringer – Police Officer, Darby Police Department**
Chief Larry Rose sent a request for reciprocity for Officer Ringer and requested that he be allowed to attend the Legal Equivalency course. Officer Ringer became certified as a law enforcement officer in the state of Washington in July of 1986 after attending and completing the 440-hour law enforcement basic program there. He was employed as a Police Officer/Detective at the Tacoma Police Department from May of 1986 to June of 2014. He was hired by the Darby Police Department in June of 2014.
- 11. Jeffrey Vittatoe – Investigator, Gambling Control Division**
Chief Dave Jeseritz sent a request for reciprocity for Investigator Vittatoe and requested that he be allowed to attend the Legal Equivalency course. Investigator Vittatoe became certified as a law enforcement officer in the state of Tennessee in October of 1996 after attending and completing the 320-hour law enforcement basic program there. He was employed as a Law Enforcement Officer in Tennessee from October of 1996 to June of 2009, when he took an administrative position at a district attorney's office. He was hired by the Gambling Control Division in May of 2014.
- 12. Eric Visocan – Police Officer, Fort Benton Police Department**
Chief John Turner sent a request for reciprocity for Officer Visocan and requested that he be allowed to attend the Legal Equivalency course. Officer Visocan became certified as a law enforcement officer in the state of Missouri in April of 2008 after attending and completing the law enforcement basic program there. He was employed as a Police Officer at the New Haven Police Department from July of 2008 to August of 2013. He was hired by the Judith Basin Sheriff's Office in November of 2013, then at the Fort Benton Police Department in June of 2014.
- 13. John Komora – Investigator, Division of Criminal Investigation**
Lee Johnson, Supervisory Agent sent a request for reciprocity for Investigator Komora and requested that he be allowed to attend the Legal Equivalency course. Investigator Komora attended and completed the Criminal Investigator Training Program at the Federal Law Enforcement Training Center. He also completed all aspects and requirements of New Agent Training at the ATF National Academy in July of 1991. He was employed as an ATF Special Agent at the Federal Bureau of Alcohol, Tobacco and Firearms for about 22 and ½ years, until he retired in January of 2013. He was hired by the Division of Criminal Investigation in June of 2014.

14. Rachel Ybarra – Detention Officer, Big Horn County Sheriff’s Office

Michael Fuss, Undersheriff sent a request for reciprocity for Officer Ybarra and requested that she be allowed to challenge DCOB. Officer Ybarra did not become certified as a detention officer, because detention officers are not certified in the state of Colorado, as confirmed by Colorado POST. She has received the following training:

- Morgan County Sheriff’s Office Detention Academy – 224 hours total including;

- Driving – 40 hours
- Firearms – 40 hours
- Arrest Control – 40 hours
- Taser – 8 hours
- CPR/First Aid – 12 hours
- Academy Introduction – 2 hours
- MCSO Policy & Procedure – 2 hours
- Excited Delirium – 1 hour
- Radio Procedures – 2 hours
- Criminal Law – 4 hours
- Mental Health Issues – 4 hours
- Fingerprinting Procedures – 2 hours
- Release Procedures – 2 hours
- Booking Procedures – 8 hours
- Report Writing – 4 hours
- Arrest Packet – 2 hours
- Bonding Procedures – 2 hours
- CCIC Procedures – 4 hours
- Victim Services – 2 hours
- Stress Awareness – 8 hours
- Medical Procedures – 2 hours
- Jail Operations – 4 hours
- Prisoner Interaction – 2 hours
- Office Safety – 4 hours
- Criminal Justice Systems – 4 hours
- Intoxilyzer Certification – 8 hours

- Central Texas College Corrections Officer Academy 120-hour pre-service correctional officer training

- Psychiatric Security Specialist Training – 40 hours

She was employed as a Detention Officer at the Morgan County Sheriff’s Office from October of 2011 to December of 2013. She was hired by the Big Horn County Sheriff’s Office in December of 2013.

Perry Johnson, Executive Director
Montana POST Council

Committee Reports: Business Plan



**Montana Public Safety Officer
Standards and Training Council
2010-2014 Long Range Operational Plan
May 4, 2011**

EXECUTIVE SUMMARY

The Montana Peace Officer Standards and Training Advisory Council became the Montana Public Safety Officer Standards and Training (POST) Council on July 1, 2007 as a result of legislative action established through MCA 2-15-2029, Montana public safety officer standards and training council -- administrative attachment -- rulemaking. The legislation established the council as a quasi-judicial board and administratively attached it to the Montana Department of Justice, rather than the Montana Board of Crime Control. POST members are appointed by the governor subject to confirmation by the Montana Senate.

POST Council duties and responsibilities are established in MCA 44-4-403, Council duties -- determinations -- appeals and provide that the council shall:

1. Establish basic and advanced qualification and training standards for employment of Montana public safety officers
2. Conduct and approve public safety officer training
3. Provide for certification or recertification of public safety officers and for the suspension or revocation of certification of public safety officers

The law also provides that:

1. The council may waive or modify a qualification or training standard for good cause
2. A public safety officer who has been denied certification or recertification or whose certification or recertification has been suspended or revoked is entitled to a contested case hearing before the council. The council's decision may be appealed to the Board of Crime Control, whose decision is subject to judicial review.

POST Council staff members did not transfer when the transition to the Department of Justice occurred in July 2007. Two positions and a small operational budget were included in the transition and the POST Council hired a new executive director in August 2007. The director worked closely with Department of Justice staff during the transition period identifying and establishing necessary fiscal resources and support and human resource staffing. A full-time administrative support staff member was hired in March to support the director, whose responsibilities include administering POST activities on a daily basis and supporting council activities.

The POST Council held a planning retreat in Bozeman on Feb. 19-20, 2008, to allow council members to discuss POST responsibilities and processes in light of the transition;

to ensure a clear mission and commonly held vision of the future; and to establish operational goals.

MISSION, VISION AND GOALS

Mission Statement:

To assure competency & promote quality performance by public safety officers by establishing, maintaining and promoting excellence in standards and training

Vision Statement:

The public is safe, secure and has confidence in and respect for Montana public safety officers.

Goals:

1. Determine staff and committee fiscal and staffing needs for budget approval through the governor's executive planning process; establish adequate funds to carry out statutory functions; identify alternative money sources.
2. Develop and operationalize a fully functioning POST data base.
3. Establish an educational certification review and approval process and secure resources to hire a staff curriculum specialist to approve training courses, curricula and trainers.
4. Research, develop, and implement POST certification testing and annual recertification training requirements.
5. Review statutes applicable to POST functions and activities, identify conflicts or other clarification needs and draft bill proposals for legislative action.
6. Identify and record POST Council authority and responsibility through an ongoing review of administrative rules.
7. Establish a POST policy management process and draft policy and operational procedures related to council responsibilities and functions.
8. Establish communication channels with the seven Montana Tribal Councils to assure understanding of POST functions and processes.
9. Review and update as needed a POST Council communication plan to ensure that public safety officers, the public and other stakeholders have access to and are kept abreast of council activities and actions.

BACKGROUND INFORMATION:

Until the 2007 legislative session, the POST Advisory Council operated as an advisory council to the Montana Board of Crime Control.

In 1983, the legislature passed MCA 7-32-303 Peace officer employment, education, and certification standards, for peace officers. In 1985 the Montana Board of Crime Control formulated the Peace Officers Standards and Training Advisory Council, whose responsibilities and membership were outlined in ARM 23.14.401.

The 1989 Legislature authorized the Board of Crime Control to promulgate rules for the certification of local detention officers and, in 1991 the Legislature gave the Board of Crime Control the authority to certify public safety communications officers and probation and parole officers.

Then in 1993 the board received authority to certify motor carrier services officers and county coroners, as well as the authority to develop procedures for revoking or suspending the certification of peace officers, detention officers, detention center administrators and public safety communications officers.

The 1995 Legislature gave the board the authority to grant up to 180-day extensions to coroners, who due to extenuating circumstance require extra time to complete the mandatory two-year training.

In 1999, lawmakers gave the Board of Crime Control authority to certify corrections officers in adult and juvenile correctional facilities.

The 2007 legislative session eliminated the Montana Peace Officers Standards Training Council when it implemented Senate Bill 273. The measure created the Montana Public Safety Officers Standards and Training Council, an independent, quasi-judicial board, as provided in 2-15-124 MCA. The council was administratively attached to the Department of Justice as described in 2-15-2029, MCA, with specific exemptions to 2-15-121, MCA. Another statute, 2-15-2029 MCA, authorized the council to promulgate rules for the implementation of the provisions of Title 44, chapter 4, part 4. SB273 authorized the newly formed council to set the employment and training standards for all Montana public safety officers as defined in 44-4-401 MCA, which for the first time in state history included reserve officers and sheriffs.

ORGANIZATION AND MANAGEMENT:

The Montana Public Safety Officer Standards and Training (POST) Council is a quasi-judicial board, attached to the state Department of Justice. The council may hire its own personnel, independently conduct its business and may adopt administrative rules to implement Title 44, chapter 4, part 4. As established in MCA 2-15-2029. Montana public safety officer standards and training council -- administrative attachment -- rulemaking, the Department of Justice does not direct and supervise the budgeting, recordkeeping, reporting, and related administrative and clerical functions of the council, provide staff for the council or represent the council in communications with the governor.

As a quasi-judicial board, the Montana POST Council performs adjudicatory functions which require members to exercise judgment and discretion when interpreting, applying and enforcing existing rules and laws affecting Montana's criminal justice agencies and personnel. As provided for in MCA 44-4-403. Council duties -- determinations -- appeals, the council establishes basic and advanced qualification and training standards for employment, conducts and approves training, provides for certification, recertification, suspension and revocation of certification of Montana's public safety officers. Additionally, the council investigates complaints of illegal or unethical conduct of public safety officers, determining the rights and interests of adverse parties, evaluates and passes on facts, and in contested cases conducts hearings. Decisions of the council may be appealed to the Board of Crime Control as provided in MCA 44-4-301. Functions.

Per MCA 2-15-124. Quasi-judicial boards, the governor appoints the council members. A majority of the members must be appointed to serve for terms concurrent with the gubernatorial term and until their successors are appointed. The remaining members are appointed and serve for terms ending on the first day of the third January of the succeeding gubernatorial term and serve until their successors are appointed. It is the intent that the governor appoint a majority of the members at the beginning of his/her term and the remaining members in the middle of the term. The appointment of each council member is subject to the confirmation of the Senate.

The council consists of no more than 13 voting members. The membership must include but is not limited to:

- One state government law enforcement representative;
- One chief of police, who may be appointed based on recommendations from the Montana Association of Chiefs of Police
- One sheriff, who may be appointed based on recommendations from the Montana Sheriffs' and Peace Officers' Association;
- One representative from the Department of Corrections;
- One local law enforcement officer in a non-administrative position, who may be appointed based on recommendations from the Montana Police Protective Association;
- One detention center administrator or detention officer;
- One Montana-certified tribal law enforcement representative;
- One county attorney, who may be appointed based upon recommendations from the Montana County Attorneys' Association;
- Two members of the Board of Crime Control; and
- Three Montana citizens at large who are informed and experienced in the subject of law enforcement.

Council members are entitled to be paid \$50 for each day in which the member is actually necessarily engaged in the performance of board duties. They are also entitled to be reimbursed for travel expenses, as provided in MCA 2-18-501. Meals, lodging, and transportation of persons in state service through MCA 2-18-503. Mileage -- allowance. Council members who are full-time salaried officers or employees of the state, a city or

county, are not entitled to be compensated for their services unless they perform their board duties outside their regular working hours or during time charged against their leave.

Current Council Membership:

Name	City	Term Start	Term End	Qualifications
Winnie Ore	Helena	10/15/2007	01/01/2015	Public Representative Chairperson
Steve Barry	Helena	10/15/2007	01/01/2013	Dept. of Corrections Rep, Vice Chairperson
Tony Harbaugh	Miles City	10/15/2007	01/01/2013	Sheriff
Mike Anderson	Helena	10/15/2007	01/01/2015	Board of Crime Control Representative
Dennis McCave	Billings	10/15/2007	01/01/2013	Detention Center Rep.
Bob McCarthy	Butte	10/15/2007	01/01/2013	Public Representative
Raymond Murray	Missoula	10/15/2007	01/01/2013	Public Representative
Greg Watson	Missoula	02/12/2009	01/01/2013	State Government Law Enforcement Rep.
Georgette Hogan Boggio	Hardin	02/01/2009	01/01/2015	County Attorneys Representative
Harold Hanser	Billings	08/06/2010	01/2013	Board of Crime Control Representative
James Smith	Libby	01/19/2011	01/01/2015	Chief of Police Rep.
John Schaffer	Great Falls	01/19/2011	01/01/2015	Local Law Enforcement Officer Representative (Non-Administrator)
Lewis Matthews	Wolf Point	01/19/2011	01/01/2015	POST Certified Tribal Law Enforcement Rep.

The POST office is located on the campus of the Montana Law Enforcement Academy in the north Helena Valley. Daily operations of the council are performed by the executive director and administrative support staff.

Public Safety Officer Standards and Training

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SERVICES PROVIDED:

The council provides the following services:

- Information on becoming a public safety officer: Individuals interested in becoming Montana public safety officers, are advised to contact the specific agency they would like to work for. Officers working in other states are directed to read the Guidelines for Out-of-State Officers.
- POST Certificates: Under Administrative Rule 23.13.204, the basic, intermediate, advanced, supervisory, command, administrative and other certificates are established and awarded for the purpose of promoting professionalism, education, and the experience necessary to perform the duties of a public safety officer.
 - Certificates remain the property of the council. The council has the authority to recall, sanction, suspend, or revoke any or all certificates upon good cause as determined by the council.
- Extensions: Under MCA 7-32-303, the POST Council may extend the one-year time requirement for attending the applicable basic course upon the written application of the public safety officer and his or her appointing authority.
- Revocations and Suspensions: Under Administrative Rule 23.13, Subchapter 7, the POST Council reviews complaints against public safety officers and, if appropriate, may revoke or suspend an officer's certification.
- Agency Compliance Monitoring and Training: Under direction of the council, POST staff review and evaluate records, and train agency administrators to ensure compliance with relevant Montana Code and Administrative Rules affecting public safety officers as defined in MCA 44-4-401, Definitions.
- The Montana POST Integrity Report: This provides a summary of revocation and suspension cases on which the POST Council has ruled since 2004.
- Conducts and approves public safety officer training: Under Administrative Rule 23.13.301 (Qualifications for Approval of Public Safety Officer Training Courses), the council is responsible for the approval of all public safety officer training programs.
- Training and Certification Transcripts: These are made available via the Internet 24/7 by logging on at <http://www.doj.mt.gov/enforcement/post/login.asp>.

Transcripts printed from this website are considered "unofficial reports." Officers needing an official signed copy of their transcript are required to contact POST staff.

- POST Forms and other documents: These are available online in fill-in format that can be downloaded to a computer. Agency administrators or their designees must sign the documents before mailing them to POST. The following documents are available to download and print.

Title	Description
Application for Award of Certificate	Used by public safety officers to apply for a POST Certificate.
Application for Course POST Credit	Used by public safety officers to apply for POST course credit.
Application for POST Credit for Out-of-State and Other Courses	Used by public safety officers to apply for POST credit for training courses not yet approved for credit or held out of state.
CJIN POST Certification Form	Used to request CJIN certification and POST credit for CJIN training.
Employment Status Form and Instructions	Used by agencies to notify POST of the hiring, rank change or termination of a public safety officer; must be forwarded to the POST Council within 10 days. May be submitted via e-mail .
Integrity Reports	A summary of revocation and suspension cases the POST Council has ruled on since 2004; updated quarterly following POST Council meetings.
Master Instructor Application	Used to apply for or renew POST Certification as a master law enforcement instructor. See Nov. 21, 2008 Bulletin .
Primary Instructor Application	Used to apply for or renew POST Certification as a primary law enforcement instructor. See Nov. 21, 2008 Bulletin .
Professional Instructor Application	Used to apply for or renew POST Certification as a professional law enforcement instructor. See Nov. 21, 2008 Bulletin .
Standard Application for Position of Public Safety Officer in the State of Montana	Used by to apply for a position of Public Safety Officer in the State of Montana.
Training Program Attendance	Training roster required for all courses of more than eight hours, or held over more than one day.
Training Roster	Used for all courses pre-approved by POST for credit hours.

COMMUNICATION PLAN:

Effective communications plays a critical role in the success of most entities including private business, public agencies, boards and councils. Satisfaction surveys demonstrate the critical link between a successful communication program and organizational success.

Positive customer-agency relationships are expressed through trust, satisfaction and commitment, which translate into high customer satisfaction and program success.

The council, executive director and staff commitment to effective communication, evidenced by what they say and how they say it, has a profound impact on customer satisfaction and the council's bottom line, meeting the mission and exceeding established goals.

Council activities, actions and decisions communicate a message to customers and their understanding and buy-in of council goals, strategy and initiatives is essential to success. Council membership, which represents a statewide constituency, carries with it a responsibility on the part of each appointed member to reach out to those they represent, providing information, listening and sharing concerns, suggestions and ideas.

The first step in establishing a communication plan is to identify the customers or stakeholders, recognizing that the names of the broad variety of stakeholders may change based on the issues involved. Identified below is a list that includes the diverse customers and stakeholders identified in statute and rule and others who may have an interest in or are impacted by council decisions and actions:

Customers and Stakeholders

Montana citizens – “the public”

Elected public officials – including the governor, attorney general, legislators and sheriff.

Montana public safety officers – “new” and “current” officers including:

- Peace officers – deputy sheriffs and undersheriffs, police officers, Highway Patrol troopers, fish and game wardens, park rangers, campus security officers, airport police officers, reserve officers
- Department of Corrections correctional officers (adult and juvenile)
- County and local detention officers (adult and juvenile)
- Department of Corrections probation and parole officers
- Public safety communication officers
- Montana Department of Transportation motor carrier safety officers
- Department of Justice agents
- County coroners and deputy coroners
- Railroad special police officers
- School district attendance officers

Law Enforcement and Public Safety Associations including:

- Montana Sheriffs' and Peace Officers' Association
- Montana Chiefs of Police Association
- Montana Police Protective Association
- Association of Montana Troopers
- Montana Correctional Association

POST Council members

Montana Law Enforcement Academy and POST staffs

Communication Plan

The executive director will develop internal communication procedures that take into consideration the cultural and historical issues that are unique to the varied customers and stakeholders and provide a means for up, down and lateral communications. Generational differences are essential considerations in development of communication procedures.

Procedures will ensure communication processes effectively provide customers and stakeholders with current information on council activities and provide the means to allow them to ask questions and provide input. Procedures should address the following:

1. Means of communicating information necessary to consistently provide customers/stakeholders with updates on council strategies and goals, initiatives, decisions and challenges, including financial status.
2. Communicating essential and necessary issues related to program changes.
3. Establishing an easily accessed interactive two-way communication means to address customer/stakeholder concerns and answers questions.
4. Provisions for informal staff customer/stakeholder communication to celebrate successes such as goal and staff achievement to build and promote team unity and cohesiveness.
5. Establishing and encouraging council member responsibility and opportunities to communicate council activities and issues through their individual position networks.

Communications Considerations and Strategy

The council has multiple communication tools and means available including personal meetings, either one-on-one or group presentations; traditional telephone and cell phones, electronic mail, including distribution lists and written correspondence. Technology also provides additional means such as continuous connectivity devices like “blackberries;” telephone and video conferencing; webcasts; podcasts, “tweets” and use of the Internet and intranet.

Communication overload is a common problem that must be considered in the development of communication plans and procedures. Good communication strategy suggests using a variety of communication tools to ensure broad understanding by all customers/stakeholders and limiting communication messages to three to five clear concise points for any particular issue.

Additional communication strategies include:

1. At the conclusion of each fiscal year, the Executive Director will compile and discriminate an annual report containing a general overview of POST council activities including budget status, key accomplishments and critical challenges.
2. Use of message maps consisting of one page summaries that include highlighted and bulleted points which are simple, clear, concise and easily understood.
3. Recognition that the intranet, e-mail and newsletters, which may be more efficient for certain messages, are not as effective as face-to-face communications.

4. Recognition that the most effective communications methods include use of one-on-one; small group; "roundtable" and team meetings that, because they include dialogue are more effective than reports and letters.
5. Using multiple tools to ensure effective understanding, such as council rule, policy and procedure changes.
6. Assuring information is passed on in a timely manner, not sitting on it, even if it only includes a partial decision.
7. Being attentive to customers/stakeholders by listening to their questions, ideas, suggestions and concerns.

Communication Evaluation

The executive director will evaluate and assess council success, one portion of which will be communication with customers and stakeholders.

1. The executive director will conduct an annual confidential customer/stakeholder "satisfaction survey," which will include a communication portion. Survey results will be summarized and provided to the council for review and planning purposes.
2. The council chairperson will evaluate the executive director's success in the communication area through use of the established state performance appraisal process.

Resources

The executive director has available, through the council's relationship with the Department of Justice, resources to assist with council communication initiatives. These resources include the Justice Information Technology Division, Montana Law Enforcement Academy, attorney general's office and communications officers.

OPERATIONAL PLAN:

The POST Council has three primary duties as established by MCA 44-4-403. Council duties -- determinations -- appeals. The responsibilities are broad in scope and provide the council with latitude to establish programs and procedures to assure that Montana citizens have confidence in the provision of public safety services. Those duties include:

1. Establishing basic and advanced qualification and training standards for employment;
2. Conducting and approving training; and
3. Providing for the certification or recertification of public safety officers and for the suspension or revocation of certification of public safety officers.

The POST Council's executive director establishes operational plans and objectives as directed by the council through establishment of strategic and short-term goals. Council staff members play an integral part in plan development based on their line roles and

daily contact with the officers and key stakeholders. Progress updates are provided to the council through executive director updates at each council meeting.

Development of council policies and operating procedures to guide staff in the conduct of their duties is a critical part of the council transitional plan. Council duties and responsibilities must be implemented with consistency and fairness, both of which are outcomes of a current policy and procedure business model. A council's policy subcommittee has been established to facilitate this development process and will be working closely with council staff.

Agency Compliance Audits

Compliance audits are conducted to ensure compliance with officer qualification and training standards. The compliance/investigations officer will visit each public safety agency in the state and every three years thereafter to audit compliance with Montana statute and POST rules. The compliance visits include both audit and educational functions, to ensure agency compliance and to provide technical assistance and support based on agency need. Development and dissemination of reference guides and materials such as an "Administrator's Desk Reference," and updating of the "Police Commission Handbook" are important aspects of the compliance audit function.

Agency audits involve a review of the agency officer list with the POST Officer Training and Certification Database to assure that POST has been notified of hiring and promotion decisions and officer resignations. Agencies found out of compliance are given 30 days to rectify any issues raised in the audit and then a re-visit by the compliance officer is scheduled. Agency reserve officers, which just came under POST authority, are a focus for the compliance officer during the initial audit cycles.

Officer Conduct Investigations

Integrity in service is a foundation and backbone of the public safety officer's position and human failures in this critical ethical area requires council review to assure public confidence and safety. Agency officers who are subject to misconduct investigations and consequent disciplinary action may be reviewed to determine their fitness for continuing service and certification in their public safety officer position.

The compliance/investigation officer works with the executive director and staff legal counsel to identify and investigate those officer conducts cases that have been submitted for investigation or which are identified through public news sources or complaints. Cases are recorded and tracked by the executive director and assigned based on the nature and criticality of the complaint. Assignment considerations include case submission dates, deadlines and cases which may cause undue hardship or compromise public safety in a community.

The executive director will establish investigation operational procedures, which guide the investigation process and provide appropriate levels of legal review before

submission to the council for action. Investigation status updates are provided to the council by the executive director at each of the in-person meetings and on an as needed basis. An annual "officer integrity" report is produced by the executive director to summarize and identify officer certification suspensions and revocations, and to outline other pertinent integrity issues that may require council review and action.

Officer Training and Certification

Establishing officer qualifications, training and certification requires a comprehensive, flexible and user friendly record keeping system. The Officer Training and Certification Database provides this record keeping system by tracking each public safety officer's work history, training and certification.

The database is being redesigned to provide a stable technical platform and to draw on the technological capabilities of a database system to streamline many of the processes required in the day to day council management. One of the time-consuming and important processes the database will soon be able to complete is certifying requests for certificates, "basic" through "administrative." This process is currently being done manually, which takes considerable time. Development of the rules by which the database will determine eligibility when comparing an officer's training record against the certificate criteria is a significant part of this process.

Significant work has been accomplished over the past two years in this rebuilding process. In addition, as the compliance auditing activities are completed, dated information involving officers that are no longer employed as public safety officers or who have been promoted or died has been removed and archived. Information in the database must be accurate and up to date to allow officers to obtain advanced certification in a timely manner. Some agency officer pay levels are established based on certification levels. Individual public safety officers also have the ability on a self-serve basis to access and review their records via the Internet on a 24-hour, 365-day basis. Certified records must continue to be issued by POST executive director and staff.

Officers may not because of a variety of circumstances be able to complete the basic training course within one year and need council approval to extend that training. The executive director prepares these requests for council review and action at each scheduled meeting. The council may approve one extension request for a period of up to 180 days.

Officers who have completed a basic training course and have public safety officer experience in another state may ask the council for an equivalency designation. The executive director will research the training records based on these requests and make a recommendation to the council for action.

Training Course Curriculum Review

The council has the responsibility for approving officer training. This approval process includes basic and professional development courses. POST training certification is

necessary to providing officers with the capability to achieve various levels of POST certification. The certification of courses is important to assure that Montana public safety officers are receiving minimum levels of quality training that meets the requirements of their public safety positions.

The council certifies five basic courses, which are the foundational courses provided for public safety officers in a variety of positions. These basic courses include:

- Law enforcement officer
- Corrections and detention officer
- Public safety communicator
- Legal equivalency
- Coroner

The basic courses are reviewed on an a periodic basis, particularly when curriculum changes are necessary due to advances in training, equipment or changes in position responsibilities occur, such as through legislation or legal precedent. DACUM (Develop a Curriculum) studies are initiated when a thorough curriculum review is necessary. This study involves conducting a functional detailed review of position responsibilities and training needs and includes subject matter experts.

POST staffing levels are insufficient to allow “in-house” training curriculum review of the basic courses and the council relies on a curriculum subcommittee of POST to facilitate these review processes. POST staff facilitates the process in conjunction with the subcommittee, developing the final proposal for council review and approval.

POST staff resources are also not sufficient to review the large number of professional development training courses that are submitted by law enforcement agencies each year to the council for approval. Additional staffing is necessary to perform the more detailed review of these courses necessary to assure applicability and high quality levels. The executive director, who has extensive training and curriculum development experience, conducts a high-level review of these courses and approves them.

Executive Planning Process (EPP)

The council has established a goal to obtain the necessary staffing and resources to operate as a quasi-judicial board, as intended by the 2007 Legislature. This process began with the 2009 Legislature and resulted in the addition of the compliance/investigation position. The council continues to develop the programs and tools to accomplish the primary responsibilities established within statute.

The executive director develops for council input and approval the biennial funding plan for submission to the governor’s budget office. The proposals are developed based on identification of resources and program needs that surface through the biennium. Individual officer and agency requests, citizen complaints and quality improvement efforts serve as the impetus for additional program planning.

Conflicts or identified needs within statute also serve as the basis for requests for legislation, which are established through the executive planning process (EPP). The council and executive director work with council's legal counsel on drafting language to be submitted for consideration by the Legislature.

The EPP and legislative proposals, submitted with council approval through the attorney general's office, are presented and supported by the executive director throughout the EPP with the attorney general and budget office staff.

Public Safety Officer Information Resource

The council through implementation of the communication plan by the executive director provides citizens and current officers with a variety of resources and information. The POST website provides information on officer qualifications; training records; certification and de-certification processes; forms; training opportunities; POST Council actions and staff contact information.

The council has established an objective to develop a centralized job information source, providing interested applicants with a one-stop location to identify available state career opportunities. Staff resources have not been sufficient to complete this objective, which must be prioritized by the executive director based on other needs.

FISCAL STATUS:

The council is funded completely by state general fund. The funding covers three full-time employees and operating expenses for the council. Current FY 2011 funding levels are \$180,213 for personal services and \$89,719 for operating expenses. Operating expenses cover supplies and materials, communications, travel, rent, repair & maintenance, contracted services for our hearings officer and temporary employee. Operating expenses also cover office equipment and operation of four offices, storage equipment and space for officer and training records.

Future plans for the council include funding for two more employees and additional training to be offered across the state for all public safety officers. In addition, the council may seek "collect-and-spend" authority in order to be able offer training that pays for itself without reliance on other entities to sponsor and collect course fees.

APPENDICES:

Appendix A – Agency List Audit Findings 2010

Appendix B – Complaint Investigations 2010

Appendix C – Complaint Investigations 2011

Appendix D – POST Resolutions

Appendix E – Administrative Rules State of Montana 23.13.101 ; ORGANIZATION
through 23.13.712 ; APPEALS

Appendix F – ARM Revision Schedule 2011