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Montana Code Annotated 2017

TITLE 44. LAW ENFORCEMENT

CHAPTER 4. MISCELLANEOUS FUNCTIONS OF DEPARTMENT OF JUSTICE

Part 4. Montana Public Safety Officer Standards and Training Council

Definitions

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.

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TITLE 44. LAW ENFORCEMENT

CHAPTER 4. MISCELLANEOUS FUNCTIONS OF DEPARTMENT OF JUSTICE

Part 4. Montana Public Safety Officer Standards and Training Council

Membership -- Composition

44-4-402. Membership -- composition. (1) The council consists of no more than 13 voting members appointed by the governor in accordance with **2-15-124** and as provided in this section.

(2) Membership must include but is not limited to:

- (a) one state government law enforcement representative;
- (b) one chief of police, who may be appointed based on recommendations from the Montana association of chiefs of police;
- (c) one sheriff, who may be appointed based on recommendations from the Montana sheriffs and peace officers association;
- (d) one representative from the department of corrections established in **2-15-2301**;
- (e) one local law enforcement officer in a nonadministrative position, who may be appointed based on recommendations from the Montana police protective association;
- (f) one detention center administrator or detention officer;
- (g) one Montana-certified tribal law enforcement representative;
- (h) one county attorney, who may be appointed based on recommendations from the Montana county attorneys association;
- (i) two members of the board of crime control established in **2-15-2306**; and
- (j) three Montana citizens at large who are informed and experienced in the subject of law enforcement.

History: En. Sec. 3, Ch. 506, L. 2007.

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TITLE 44. LAW ENFORCEMENT

CHAPTER 4. MISCELLANEOUS FUNCTIONS OF DEPARTMENT OF JUSTICE

Part 4. Montana Public Safety Officer Standards and Training Council

Council Duties -- Determinations -- Appeals

44-4-403. Council duties -- determinations -- appeals. (1) The council shall:

- (a) establish basic and advanced qualification and training standards for employment;
- (b) conduct and approve training; and
- (c) provide for the certification or recertification of public safety officers and for the suspension or revocation of certification of public safety officers.

(2) The council may waive or modify a qualification or training standard for good cause.

(3) A person 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 pursuant to Title 2, chapter 4, part 6, except that a decision by the council may be appealed to the board of crime control, as provided for in **44-7-101**. A decision of the board of crime control is a final agency decision subject to judicial review.

(4) The council is designated as a criminal justice agency within the meaning of **44-5-103** for the purpose of obtaining and retaining confidential criminal justice information, as defined in **44-5-103**, regarding public safety officers in order to provide for the certification or recertification of a public safety officer and for the suspension or revocation of certification of a public safety officer. The council may not record or retain any confidential criminal justice information without complying with the provisions of the Montana Criminal Justice Information Act of 1979 provided for in Title 44, chapter 5.

History: En. Sec. 4, Ch. 506, L. 2007; amd. Sec. 2, Ch. 196, L. 2015.

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TITLE 44. LAW ENFORCEMENT

CHAPTER 4. MISCELLANEOUS FUNCTIONS OF DEPARTMENT OF JUSTICE

Part 4. Montana Public Safety Officer Standards and Training Council

Appointing Authority Responsible For Applying Standards

44-4-404. Appointing authority responsible for applying standards. It is the responsibility of a public safety officer's appointing authority to apply the employment standards and training criteria established by the council pursuant to this part, including but not limited to requiring the successful completion of minimum training standards within 1 year of the public safety officer's hire date and terminating the employment of a public safety officer for failure to meet the minimum standards established by the council pursuant to this part.

History: En. Sec. 5, Ch. 506, L. 2007.

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Rule Chapter: 23.13

Chapter Title: PUBLIC SAFETY OFFICER STANDARDS AND TRAINING (POST)



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Rule: 23.13.102

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23.13.102 DEFINITIONS

As used in this chapter, 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 denial, revocation, suspension, or sanction proceeding against an officer.
- (2) "Certification" or "certificate" means any 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.
- (4) "Conviction" means a judgment or sentence entered upon a guilty or nolo contendere plea or upon a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury, without regard to the sentence imposed or whether the charge is later dismissed.
- (5) "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.
- (6) "Director" or "executive director" means the executive director of the public safety officer standards and training council.
- (7) "Employing authority," "employing agency," or "governmental unit" means any entity 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.
- (8) "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.
- (9) "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.
- (10) "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.
- (11) "Informal proceeding" means 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.

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

(13) "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](#).

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

(15) "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.

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

(17) "POST-approved training" means training reviewed and approved pursuant to ARM [23.13.301](#) for which POST gives training credit, including but not limited to basic, regional, and professional courses.

(18) "POST certified instructor" means a public safety officer, as defined in these rules, who has met the requirements for and received an Instructor Certificate pursuant to these rules, and may apply for and receive approval for POST training credit pursuant to these rules, for trainings the officer conducts.

(19) "Presiding officer" means the chair of the council who holds all the same powers as a hearing examiner for the purpose of contested cases.

(20) "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](#) or [44-4-403](#), MCA to an elected official.

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

(22) "Revocation" means the permanent cancellation by the director or 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.

(23) "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.

(24) "Sanction" means a consequence or punishment for a violation of ARM [23.13.702](#), [23.13.203](#), or the laws or rules of Montana.

(25) "Substance abuse" means the use of illegal drugs, other illegal substances, or legally acquired drugs in a manner 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 or safety of the public or a fellow officer.

(26) "Suspension" means the annulment, for a 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.

History: [2-15-2029](#), MCA; [IMP, 2-15-2029, 44-4-403](#), MCA; [NEW](#), 2008 MAR p. 1587, Eff. 8/1/08; [AMD & TRANS](#), from [23.13.701](#), 2014 MAR p. 2951, Eff. 12/12/14; [AMD](#), 2017 MAR p. 1953, Eff. 10/28/17; [AMD](#), 2018 MAR p. 2518, Eff. 12/22/18.

MAR Notices	Effective From	Effective To	History Notes
23-13-254	12/22/2018	Current	History: 2-15-2029 , MCA; IMP, 2-15-2029, 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD & TRANS , from 23.13.701 , 2014 MAR p. 2951, Eff. 12/12/14; AMD , 2017 MAR p. 1953, Eff. 10/28/17; AMD , 2018 MAR p. 2518, Eff. 12/22/18.
23-13-246	10/28/2017	12/22/2018	History: 2-15-2029, 44-4-402 , MCA; IMP, 2-15-2029, 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD & TRANS , from 23.13.701 , 2014 MAR p. 2951, Eff. 12/12/14; AMD , 2017 MAR p. 1953, Eff. 10/28/17.

[23-13-240](#) [12/12/2014](#) 10/28/2017 History: [2-15-2029](#), [44-4-402](#), MCA; IMP, [2-15-2029](#), [44-4-403](#), MCA; [NEW](#), 2008 MAR p. 1587, Eff. 8/1/08; [AMD & TRANS](#), from [23.13.701](#), 2014 MAR p. 2951, Eff. 12/12/14.

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Rule Title: MINIMUM STANDARDS FOR THE APPOINTMENT AND CONTINUED EMPLOYMENT OF PUBLIC SAFETY OFFICERS

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23.13.201 MINIMUM STANDARDS FOR THE APPOINTMENT AND CONTINUED EMPLOYMENT OF PUBLIC SAFETY OFFICERS

- (1) 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, all public safety officers 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 or a crime involving unlawful sexual conduct;
 - (e) be of good moral character as determined by a thorough background check;
 - (f) be a high school graduate or 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;
 - (g) successfully complete an oral interview and pass a thorough background check conducted by the appointing authority or its designated representative;
 - (h) be in good standing with POST and 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;
 - (i) possess a valid driver's license if driving a vehicle will be part of the officer's duties;
 - (j) abide by the code of ethics contained in ARM [23.13.203](#); and
 - (k) 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 Denial, 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)(j) and (2)(k). The employing agency must maintain records of the administration of the oath and the continuing education hours acquired to satisfy (2)(j) and (2)(k). Agency records maintained under this rule are subject to audit by the executive director during normal business hours upon reasonable notice to the agency.

History: [2-15-2029](#), MCA; [IMP](#), [2-15-2029](#), [44-4-403](#), MCA; [NEW](#), 2008 MAR p. 1587, Eff. 8/1/08; [AMD](#), 2014 MAR p. 2951, Eff. 12/12/14; [AMD](#), 2017 MAR p. 1953, Eff. 10/28/17; [AMD](#), 2018 MAR p. 2518, Eff. 12/22/18.

MAR Notices	Effective From	Effective To	History Notes
23-13-254	12/22/2018	Current	History: 2-15-2029 , MCA; IMP , 2-15-2029 , 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14; AMD , 2017 MAR p. 1953, Eff. 10/28/17; AMD , 2018 MAR p. 2518, Eff. 12/22/18.
23-13-246	10/28/2017	12/22/2018	History: 2-15-2029 , MCA; IMP , 2-15-2029 , 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14; AMD , 2017 MAR p. 1953, Eff. 10/28/17.
23-13-240	12/12/2014	10/28/2017	History: 2-15-2029 , MCA; IMP , 2-15-2029 , 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14.
23-13-196	8/1/2008	12/12/2014	History: 2-15-2029 , MCA; IMP , 2-15-2029 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08.

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Rule: 23.13.203

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23.13.203 CODE OF ETHICS

(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 abide by the code of ethics contained herein.

(2) 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. 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 denial, suspension, sanction, or revocation of any POST certificate.

(3) 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 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 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 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."

History: [2-15-2029](#), MCA; [IMP](#), [2-15-2029](#), [7-32-303](#), [44-4-403](#), MCA; [NEW](#), 2008 MAR p. 1587, Eff. 8/1/08; [AMD](#), 2014 MAR p. 2951, Eff. 12/12/14; [AMD](#), 2017 MAR p. 1953, Eff. 10/28/17; [AMD](#), 2018 MAR p. 2518, Eff. 12/22/18.

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23-13-254	12/22/2018	Current	History: 2-15-2029 , MCA; IMP, 2-15-2029, 7-32-303, 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14; AMD , 2017 MAR p. 1953, Eff. 10/28/17; AMD , 2018 MAR p. 2518, Eff. 12/22/18.
23-13-246	10/28/2017	12/22/2018	History: 2-15-2029 , MCA; IMP, 2-15-2029, 7-32-303, 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14; AMD , 2017 MAR p. 1953, Eff. 10/28/17.
23-13-240	12/12/2014	10/28/2017	History: 2-15-2029 , MCA; IMP, 2-15-2029, 7-32-303, 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14.
23-13-196	8/1/2008	12/12/2014	History: 2-15-2029 , MCA; IMP, 2-15-2029 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08.

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Rule: 23.13.204

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Rule Title: PURPOSE OF CERTIFICATES

Department: [JUSTICE](#)
 Chapter: [PUBLIC SAFETY OFFICER STANDARDS AND TRAINING \(POST\)](#)
 Subchapter: [Certification](#)



Latest version of the adopted rule presented in Administrative Rules of Montana (ARM):

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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, 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 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.

History: [2-15-2029](#), MCA; [IMP](#), [2-15-2029](#), [7-32-303](#), [44-4-403](#), MCA; [NEW](#), 2008 MAR p. 1587, Eff. 8/1/08; [AMD](#), 2014 MAR p. 2951, Eff. 12/12/14; [AMD](#), 2018 MAR p. 2518, Eff. 12/22/18.

MAR Notices	Effective From	Effective To	History Notes
23-13-254	12/22/2018	Current	History: 2-15-2029 , MCA; IMP , 2-15-2029 , 7-32-303 , 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14; AMD , 2018 MAR p. 2518, Eff. 12/22/18.
23-13-240	12/12/2014	12/22/2018	History: 2-15-2029 , MCA; IMP , 2-15-2029 , 7-32-303 , 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14.
23-13-196	8/1/2008	12/12/2014	History: 2-15-2029 , MCA; IMP , 2-15-2029 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08.

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Rule Title: GENERAL REQUIREMENTS FOR CERTIFICATION

Department: [JUSTICE](#)
 Chapter: [PUBLIC SAFETY OFFICER STANDARDS AND TRAINING \(POST\)](#)
 Subchapter: [Certification](#)



Latest version of the adopted rule presented in Administrative Rules of Montana (ARM):

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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 as defined by [44-4-401](#), MCA, at the time the application for certification is received by the council.

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

(3) All public safety officers must abide by 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 must have completed the designated combinations of education, training, and experience as established 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 denial, 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\(2\)\(k\)](#).

(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 will be determined by the council, and requires an application for credit.

(7) No more than 15% of the required training hours will be allowed from in-service training. An officer who wishes to use in-service training hours when applying for intermediate, advanced, supervisory, command and other certificates must submit documentation of in-service training hours with the officer's certificate application.

(a) The POST Council is not responsible for maintaining records of the course content supporting regional, online, or in-service training hours acquired to satisfy the requirements of this rule. The employing agency or the individual officer must maintain records of the course content supporting regional, online, or in-service training hours acquired to satisfy this rule.

(8) 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.

History: [2-15-2029](#), MCA; [IMP, 2-15-2029, 44-4-403](#), MCA; [NEW](#), 2008 MAR p. 1587, Eff. 8/1/08; [AMD](#), 2014 MAR p. 2951, Eff. 12/12/14; [AMD](#), 2017 MAR p. 1953, Eff. 10/28/17; [AMD](#), 2018 MAR p. 2518, Eff. 12/22/18.

MAR Notices	Effective From	Effective To
23-13-254	12/22/2018	Current

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History: [2-15-2029](#), MCA; [IMP, 2-15-2029, 44-4-403](#), MCA; [NEW](#), 2008 MAR p. 1587, Eff. 8/1/08; [AMD](#), 2014 MAR p. 2951, Eff. 12/12/14; [AMD](#), 2017 MAR p. 1953, Eff. 10/28/17; [AMD](#), 2018 MAR p. 2518, Eff. 12/22/18.

23-13-246	10/28/2017	12/22/2018	History: 2-15-2029 , MCA; IMP , 2-15-2029 , 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14; AMD , 2017 MAR p. 1953, Eff. 10/28/17.
23-13-240	12/12/2014	10/28/2017	History: 2-15-2029 , MCA; IMP , 2-15-2029 , 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14.
23-13-196	8/1/2008	12/12/2014	History: 2-15-2029 , MCA; IMP , 2-15-2029 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08.

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Rule Title: PUBLIC SAFETY OFFICER EMPLOYMENT, EDUCATION, AND CERTIFICATION STANDARDS

Department: [JUSTICE](#)
 Chapter: [PUBLIC SAFETY OFFICER STANDARDS AND TRAINING \(POST\)](#)
 Subchapter: [Certification](#)



Latest version of the adopted rule presented in Administrative Rules of Montana (ARM):

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23.13.216 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.

History: [2-15-2029](#), MCA; [IMP](#), [7-32-303](#), [44-4-403](#), MCA; [NEW](#), 2014 MAR p. 2951, Eff. 12/12/14.

MAR Notices	Effective From	Effective To	History Notes
23-13-240	12/12/2014	Current	History: 2-15-2029 , MCA; IMP , 7-32-303 , 44-4-403 , MCA; NEW , 2014 MAR p. 2951, Eff. 12/12/14.

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Rule Title: GROUNDS FOR DENIAL, SANCTION, SUSPENSION, OR REVOCATION OF POST CERTIFICATION

Department: [JUSTICE](#)
Chapter: [PUBLIC SAFETY OFFICER STANDARDS AND TRAINING \(POST\)](#)
Subchapter: [Revocation/Suspension of Certification](#)



Latest version of the adopted rule presented in Administrative Rules of Montana (ARM):

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23.13.702 GROUNDS FOR DENIAL, SANCTION, SUSPENSION, OR REVOCATION OF POST CERTIFICATION

(1) The executive director or the council will consider any legitimate allegation made against any public safety officer that may result in the denial, sanction, revocation, or suspension of that officer's certification.

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

(a) willful falsification of 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 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) engaging in substance abuse as defined in these rules;

(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) conviction of a felony, or an offense which would be a felony if committed in this state;

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

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

(h) willful violation of the code of ethics set forth in ARM [23.13.203](#);

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

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

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

(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 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 denial, 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) It is a defense to an allegation of substance abuse, as defined in these rules, if the officer shows by a preponderance of the evidence that the officer's substance abuse has been eliminated or overcome by reasonable treatment.

History: [2-15-2029](#), MCA; [IMP, 2-15-2029, 44-4-403](#), MCA; [NEW](#), 2008 MAR p. 1587, Eff. 8/1/08; [AMD](#), 2014 MAR p. 2951, Eff. 12/12/14; [AMD](#), 2017 MAR p. 1953, Eff. 10/28/17; [AMD](#), 2018 MAR p. 2518, Eff. 12/22/18.

MAR Notices	Effective From	Effective To	History Notes
23-13-264	12/22/2018	Current	History: 2-15-2029 , MCA; IMP, 2-15-2029, 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14; AMD , 2017 MAR p. 1953, Eff. 10/28/17; AMD , 2018 MAR p. 2518, Eff. 12/22/18.
23-13-246	10/28/2017	12/22/2018	History: 2-15-2029 , MCA; IMP, 2-15-2029, 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14; AMD , 2017 MAR p. 1953, Eff. 10/28/17.
23-13-240	12/12/2014	10/28/2017	History: 2-15-2029 , MCA; IMP, 2-15-2029, 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14.
23-13-196	8/1/2008	12/12/2014	History: 2-15-2029 , MCA; IMP, 2-15-2029 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08.

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Rule Title: PROCEDURE FOR MAKING AND RECEIVING ALLEGATIONS OF OFFICER MISCONDUCT AND FOR INFORMAL RESOLUTION OF THOSE ALLEGATIONS BY THE DIRECTOR

Department: [JUSTICE](#)
Chapter: [PUBLIC SAFETY OFFICER STANDARDS AND TRAINING \(POST\)](#)
Subchapter: [Revocation/Suspension of Certification](#)



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23.13.703 PROCEDURE FOR MAKING AND RECEIVING ALLEGATIONS OF OFFICER MISCONDUCT AND FOR INFORMAL RESOLUTION OF THOSE ALLEGATIONS BY THE DIRECTOR

(1) The POST Council will create, maintain, and adopt in public meetings a policy and procedure for processing and responding to allegations. The 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 denial, 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. All allegations must be made in writing unless the director initiates the allegation. Anonymous allegations will not be considered unless the director determines that public safety may be threatened if POST takes no action on an anonymous 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) Within 30 days of 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, 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. The employing authority may make a written request to the director for additional time to respond. Such a request must provide good cause as to the reason more time is required. The director may grant or deny requests for additional time at his discretion.

(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 denial, sanction, suspension, or revocation of the officer's POST certification;

(c) A person making an allegation must use the allegation form available from POST staff or submit an allegation in substantially similar format.

(d) An employing authority or the Montana Law Enforcement Academy may submit a written allegation on the agency's letterhead with supporting documents that the agency deems appropriate.

(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 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, 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 denial, sanction, suspension, or revocation of a certificate;

(e) if a denial, 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 denial, sanction, suspension, or revocation 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.

History: 2-15-2029, MCA; IMP, 2-4-201, 2-15-2029, 44-4-403, MCA; NEW, 2008 MAR p. 1587, Eff. 8/1/08; AMD, 2014 MAR p. 2951, Eff. 12/12/14; AMD, 2017 MAR p. 1953, Eff. 10/28/17; AMD, 2018 MAR p. 2518, Eff. 12/22/18.

MAR Notices	Effective From	Effective To	History Notes
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23-13-246	10/28/2017	12/22/2018	History: 2-15-2029 , MCA; IMP , 2-4-201 , 2-15-2029 , 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14; AMD , 2017 MAR p. 1953, Eff. 10/28/17.
23-13-240	12/12/2014	10/28/2017	History: 2-15-2029 , MCA; IMP , 2-4-201 , 2-15-2029 , 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14.
23-13-196	8/1/2008	12/12/2014	History: 2-15-2029 , MCA; IMP , 2-15-2029 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08.

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DATE	TIME	LOCATION	ACTIVITY
10/15/68	1400	Room 3030	Meeting with [redacted]
10/15/68	1500	Room 3030	Meeting with [redacted]
10/15/68	1600	Room 3030	Meeting with [redacted]
10/15/68	1700	Room 3030	Meeting with [redacted]
10/15/68	1800	Room 3030	Meeting with [redacted]
10/15/68	1900	Room 3030	Meeting with [redacted]
10/15/68	2000	Room 3030	Meeting with [redacted]
10/15/68	2100	Room 3030	Meeting with [redacted]
10/15/68	2200	Room 3030	Meeting with [redacted]
10/15/68	2300	Room 3030	Meeting with [redacted]
10/15/68	0000	Room 3030	Meeting with [redacted]



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Rule Title: REQUESTS FOR A FORMAL CONTESTED CASE HEARING UNDER MAPA

Department: [JUSTICE](#)
Chapter: [PUBLIC SAFETY OFFICER STANDARDS AND TRAINING \(POST\)](#)
Subchapter: [Revocation/Suspension of Certification](#)



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23.13.704 REQUESTS FOR A FORMAL CONTESTED CASE HEARING UNDER MAPA

(1) Any person aggrieved by a decision of the director or a decision of the council, other than a decision by the director to deny, sanction, suspend, or revoke a certificate, that is not a final decision following a contested case hearing, as provided in [2-4-623](#), MCA, may request a contested case hearing before the council by following the procedures set forth in Title 2, chapter 4, part 6, MCA.

(2) If the director denies, 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.

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

(b) 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 date of the notice of agency action.

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

History: [2-15-2029](#), MCA; [IMP](#), [2-4-201](#), [2-15-2029](#), [44-4-403](#), MCA; [NEW](#), 2008 MAR p. 1587, Eff. 8/1/08; [AMD](#), 2014 MAR p. 2951, Eff. 12/12/14; [AMD](#), 2017 MAR p. 1953, Eff. 10/28/17; [AMD](#), 2018 MAR p. 2518, Eff. 12/22/18.

MAR Notices	Effective From	Effective To	History Notes
23-13-254	12/22/2018	Current	History: 2-15-2029 , MCA; IMP , 2-4-201 , 2-15-2029 , 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14; AMD , 2017 MAR p. 1953, Eff. 10/28/17; AMD , 2018 MAR p. 2518, Eff. 12/22/18.
23-13-246	10/28/2017	12/22/2018	History: 2-15-2029 , MCA; IMP , 2-4-201 , 2-15-2029 , 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14; AMD , 2017 MAR p. 1953, Eff. 10/28/17.
23-13-240	12/12/2014	10/28/2017	History: 2-15-2029 , MCA; IMP , 2-4-201 , 2-15-2029 , 44-4-403 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08; AMD , 2014 MAR p. 2951, Eff. 12/12/14.
23-13-196	8/1/2008	12/12/2014	History: 2-15-2029 , MCA; IMP , 2-15-2029 , MCA; NEW , 2008 MAR p. 1587, Eff. 8/1/08.

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