

CR 86-246

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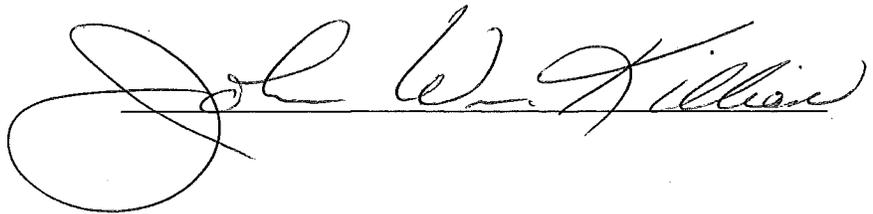
3:00  
Revisor of Statutes  
Bureau

STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE  
LAW ENFORCEMENT STANDARDS BOARD

I, John Killian, Secretary of the Law Enforcement Standards Board and custodian of the official records, certify that the annexed rules, relating to waiver of training requirements for recertification, definitions, recommendations for training beyond basic law enforcement, instruction, and decertification of law enforcement and jail officers were duly approved and adopted by this board on December 18, 1990.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 123 East Washington Avenue in the city of Madison, this twentieth day of December, 1990.

A handwritten signature in cursive script, reading "John W. Killian", written over a horizontal line.

ORDER OF THE LAW ENFORCEMENT STANDARDS BOARD

The Law Enforcement Standards Board proposes an order to repeal and recreate LES 3.05; and to create LES 1.03 (5m) and (13), LES 3.06, and LES 6.01 through 6.04 relating to waiver of training requirements for recertification, definitions, recommendations for training beyond basic law enforcement instruction, and decertification of officers.

Analysis prepared by the Wisconsin Department of Justice, Training and Standards Bureau:

Statutory Authority: 165.85 (3)(cm)

Statutes Interpreted: 165.85 (3)(cm)

The following proposed rules clarify the certification status of law enforcement and jail officers. They specify that officers may be certified only when they are employed in contrast to current policies which allow officers to retain their certifications when they are not employed.

They also identify retraining standards for officers who have been employed after periods of unemployment. And, they recommend additional training beyond basic instruction for officers.

They include definitions of "fringe benefit" and "termination of employment."

In addition, rules establish procedures under which the Law Enforcement Standards Board may decertify officers who fail to meet the training or curriculum standards of the Board. Included are procedures for appeals by officers of decisions of the Board.

SECTION 1. LES 3.05 is repealed and recreated to read:

LES 3.05 WAIVER OF TRAINING REQUIREMENTS FOR RECERTIFICATION. (1) After receiving the recommendations of the director of the bureau, the board will determine waivers of training.

(2) Newly employed law enforcement officers who were either grandfathered into the board's program or who have already been certified by the board or newly employed jail officers who have already been certified by the board, who have been out of law enforcement or jail employment in Wisconsin for a period of two years or less and left voluntarily with a good record may be recertified without additional training.

(3) Newly employed law enforcement officers who were either grandfathered into the board's program or who have already been certified by the board or newly employed jail officers who have already been certified by the board and who have been out of law enforcement or jail employment in Wisconsin for a period of over two years but not more than three years and who left voluntarily with a good record may be recertified upon successful completion of the contingency law enforcement or jail officers training course. An equivalency examination with a grade of 70% or above may be substituted for any portion of said course the board deems appropriate.

(4) Newly employed law enforcement officers who were either grandfathered into the board's program or who have already been certified by the board and newly employed jail officers who have already been certified by the board and who have been out of law

enforcement or jail employment in Wisconsin for a period of over three years may be recertified upon successful completion of the basic preparatory course for law enforcement officers or successful completion of the basic preparatory course for jail officers. This rule may be varied by board action on an individual basis with appropriate recommendation from the bureau.

(5) A law enforcement or jail officer who has been certified or grandfathered into the system of another state, who left law enforcement or jail officer employment voluntarily with a good record, and who has been out of that employment for three years or less shall be required to successfully complete the contingency law enforcement or jail officer's training course. An equivalency examination with a grade of 70% or above may be substituted for any portion of said course the board deems appropriate.

(6) A law enforcement or jail officer previously certified or grandfathered by another state, who left law enforcement or jail officer employment voluntarily with a good record, and who has been out of that employment over three years shall be required to successfully complete the appropriate basic preparatory course for his or her specialty. The board may establish such other requirements it deems appropriate on an individual basis.

(7) The board shall consider on an individual, case-by-case basis, the waiver request of any person who has previously worked as a law enforcement or jail officer, but has not been certified or grandfathered in Wisconsin or any other state.

(8) There shall be no recognition of the status of grandfathered jail officers, and any newly employed jail officer who had previously been considered grandfathered into the board system may only be recertified upon completion of the preparatory course for jail officers.

(9) The exact curriculum for the law enforcement or jail officer's contingency program shall be designated by the board.

SECTION 2. LES 1.03(5m) and (13) are created to read:

LES 1.03 DEFINITIONS. (5m) "FRINGE BENEFIT" means benefits paid to or on behalf of an officer above his or her hourly rate or salary and not required by law to be paid. Items excluded from fringe benefits shall include, but not be limited to, unemployment taxes, workers compensation premiums, and social security taxes.

(13) "TERMINATION OF EMPLOYMENT" means complete termination of relationship between employer and employe. Any employer approved leave of absence or suspension, caused by medical, military, educational, or other reasons shall not cause a termination of employment.

SECTION 3. LES 3.06 is created to read:

LES 3.06 ADDITIONAL ORIENTATION. (intro.) Recommended additional recruit officer orientation by the employing agency should consist of each of the following subjects for a total of at least 120 hours:

(1) Departmental policies, rules and regulations and local ordinances.

(2) Firearms (familiarization with local weaponry and additional practice to improve proficiency with sidearm).

(3) Field training (with supervisor or coach).

SECTION 4. LES 6.01, 6.02, 6.03 and 6.04 are created to read:

LES 6.01 DECERTIFICATIONS. (1) All jail and law enforcement basic training certificates issued by the board shall be subject to cancellation and recall upon decertification of the officer.

LES 6.02 DECERTIFICATION ON TERMINATION OF EMPLOYMENT. (1) Upon the termination of employment of any law enforcement or jail officer, that officer's certification shall be terminated until there is received by the bureau from a new employer the verification of employment standards form required by rules of the board. The board shall then determine the amount of training, if any, required of the officer for recertification. Recertification on a contingency basis shall be effective immediately upon receipt of the bureau of the verification of employment standards form from the officer's new employer. Final recertification shall be effective upon action by the board upon completion by the officer of all requirements of the bureau for his recertification.

(a) It shall be the responsibility of all law enforcement agencies to notify the director of the bureau of the termination of any law enforcement or jail officer. This notification shall be made regardless of the reason for the termination.

(b) Any officer decertified by reason of termination of his or her law enforcement or jail officer employment shall have the right to a hearing thereon, as provided in these rules.

LES 6.03 DECERTIFICATION BY ORDER OF THE BOARD (1) The certification of any law enforcement officer may be revoked by the board for failure to comply with a rule or order of the board relating to curriculum or training.

(a) Upon receipt of information which may permit decertification of an officer, the bureau shall make a preliminary investigation and verify all relevant facts. The bureau shall also advise the board at each of the board's regularly scheduled meetings of the existence or status of any investigation in progress.

(b) The bureau shall complete its investigation of any decertification matter within 90 days of its original receipt of information.

(c) Subsequent to the completion of its investigation the bureau shall, at the next regularly scheduled meeting of the board, make a recommendation to the board regarding the certification status of that officer. The bureau may recommend:

1. That no action be taken;
2. That the officer complete certain training or take certain recommended actions within a prescribed time period, and that officer shall be decertified if the officer does not present the board with proof of compliance;

3. That the officer be decertified until certain enumerated conditions are met;

4. That the officer be decertified with the opportunity to reapply for certification as a new officer;

5. Such other recommendation as the bureau may deem appropriate under the circumstances.

(d) The board shall, within 95 days of its receipt of the recommendation of the bureau, accept or reject said recommendation or take such other action it deems appropriate under the circumstances.

(e) If the board takes any action that changes the certification status of the officer the bureau shall promptly notify the officer and the chief administrative officer of the officer's department of the board's action. The bureau shall provide the officer and his or her chief administrative officer a copy of the allegations upon which the action was taken, and a copy of the bureau's investigation and recommendation.

Said notification(s) shall be made by the bureau mailing to the chief administrative officer of the officer's department via certified mail, return receipt requested, a copy of the board's decision and the other documents provided for in these rules. The chief or someone designated by him or her shall serve a copy of said documents on the officer involved and shall return to the director of the bureau an affidavit of said service on a form to be provided by the bureau. If it is impossible to promptly serve said officer the chief shall notify the director of the bureau of that fact.

LES 6.04 HEARING ON DECERTIFICATION. (1) It shall be assumed that the decision of the board is accepted by the officer and that he will comply therewith unless said officer requests of board, for a hearing on its decision. Said request for hearing shall be addressed to the director of the bureau and sent by certified mail, return receipt requested. To be effective, said request for hearing must be received by the director of the bureau within 15 days of the service upon said officer of the recommendation of the board. If requested, the hearing shall be held as soon as reasonably possible on a date agreed to by the parties but not to exceed 60 days after receipt of the officer's request for hearing.

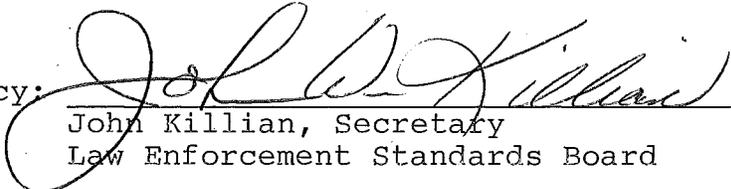
(a) All hearings shall be scheduled before the executive committee of the board.

(2) The decision of the executive committee shall be the decision of the board and shall have the same effect as a motion adopted by said board.

(3) All hearings shall be held according to procedures established by the board and published in the policies and procedures manual of said board. All of said procedures shall give appropriate consideration to due process and shall be in conformity with ch. 227, Stats.

(4) The board shall, for any proceeding held hereunder, have the power of subpoena as provided by statute and the board shall also issue subpoenas at the request of the officer involved to give him or her equal ability to obtain information and compel witnesses to testify.

EFFECTIVE DATE: This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Report as provided in S.227.22(2) (Intro.), Stats.

Dated: Dec. 20, 1990 Agency:   
John Killian, Secretary  
Law Enforcement Standards Board