

Dear Senators LODGE, Vick, Bock, and
Representatives WILLS, Luker, Burgoyne:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Idaho State Police - Idaho Peace Officer Standards & Training Council:
IDAPA 11.11.01 - Rules of the Idaho Peace Officer Standards & Training Council (Docket No. 11-1101-1301) - **Proposed Rule**.

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 10/08/2013. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/05/2013.

The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address on the memorandum attached below.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Judiciary & Rules Committee and the House Judiciary, Rules & Administration Committee

FROM: Principal Legislative Research Analyst - Brooke Brouman

DATE: September 19, 2013

SUBJECT: Idaho State Police - Idaho Peace Officer Standards & Training Council

IDAPA 11.11.01 - Rules of the Idaho Peace Officer Standards & Training Council (Docket No. 11-1101-1301) - **Proposed Rule**

The Idaho Peace Officer Standards & Training Council submits notice of rulemaking, which includes the following proposed rule changes relating to the minimum standards for employment for every peace, county detention, juvenile detention and juvenile probation officer:

- (1) Character Standards: defines "moral turpitude" and clarifies that an applicant who has committed an act involving moral turpitude, even though the applicant has never been charged by a law enforcement agency for such act, may be rejected or accepted under stated circumstances;
- (2) Drug Use: provides that an applicant shall be rejected if he or she has (a) used marijuana or other controlled substances within a stated time frame or under stated circumstances; (b) has misused prescription drugs; or (c) has violated any provision of the Idaho Uniform Controlled Substances Act or a comparable statute of another state, unless waived by the POST Division Administrator or unless the applicant falls within the juvenile drug offense exception; and
- (3) Criminal Record: revises (a) grounds for rejection of an applicant who has been convicted of misdemeanor DUI offenses; (b) revises grounds for rejection or acceptance of an applicant who has been convicted of other misdemeanor offenses within stated time frames; (c) clarifies that any misdemeanor conviction prosecuted under Title 18, Chapter 15, Idaho Code shall not be a basis for rejection of an applicant; and *(d) provides an exception to the rule that an applicant shall be rejected who has been convicted of a felony crime, the punishment for which could have been imprisonment in a federal or state penal institution.

*In regards to the felony conviction exception described in (3)(d) above, Section 19-5109(9), Idaho Code, provides that "...the council shall reject an applicant for certification who has been convicted of a felony, the punishment for which could have been imprisonment in a federal or state penal institution." There is no exception to this mandate provided in Idaho Code. Therefore, there may be a question as to whether the Council can establish an exception to the statutory mandate by rule. (See Section 056.04. on page 98 of its proposed rule.)

The proposed rule also makes changes to rules relating to administration as follows:

- (1) Renames "vocational law enforcement program" to read "college law enforcement program;" and
- (2) Revises the circumstances under which the advisory board/committee may request a waiver for a student.

The Council states that negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting and approval of the rule.

There is no negative fiscal impact to the state general funds as a result of this rulemaking.

Aside from the comments above regarding Section 056.04., the Council's proposed rule appears to be authorized pursuant to Section 19-5107, Idaho Code.

cc: Idaho State Police - Peace Officer Standards & Training
William L. Flink - Division Administrator

IDAPA 11 - IDAHO STATE POLICE

11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

DOCKET NO. 11-1101-1301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 19-5107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Defines and clarifies the character qualifications and disqualification in the area of moral turpitude, drug use, and criminal record. Allows students who are applicants to attend college training programs to appeal denial of application to the POST Council Hearing Board.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting and approval of the rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact William Flink at (208) 884-7251.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 9th day of August, 2013.

William L. Flink, Division Administrator
Idaho State Police/Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642
Phone: (208) 884-7251
Fax: (208) 884-7295

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1101-1301

054. CHARACTER.

01. Moral Turpitude. The POST Council may take into consideration the commission of any act or offense involving moral turpitude to ensure an applicant is of good moral character and warrants the public trust. “Moral turpitude” is conduct that is contrary to justice, honesty, or morality. BLACK’S LAW DICTIONARY 1030 (8th ed. 2004). The purpose of this requirement is to prohibit persons who engage in dishonest, unprofessional, unethical, or immoral conduct from becoming law enforcement officers, and to protect against acts or conduct ~~which may~~ that might endanger the safety and welfare of the public. (4-2-03)()

02. May Be Rejected. An applicant may be rejected who has committed any act involving moral turpitude, even though the applicant has never been charged by a law enforcement agency for such act. Such an act can include, but is not limited to, an act involving fraud, larceny, or the intent to harm persons. Such an act can also encompass certain sexual acts or sex-related acts, such as rape, sexual assault, lewd conduct with a child, sexual abuse of a child or vulnerable adult, child pornography, bestiality, video voyeurism, and prostitution. ()

03. May Be Accepted. If an applicant committed any act involving moral turpitude, the applicant may be accepted upon approval of the POST Division Administrator, provided the applicant’s agency head, with knowledge of the facts and circumstances concerning the act, recommends approval. The POST Division Administrator shall have the discretion to refer the application to the POST Council. ()

055. DRUG USE.

01. Marijuana. An applicant shall be rejected who has used marijuana: ()

a. Within the past three (3) years; ()

b. While employed as a law enforcement officer, in a prosecutorial position, or in a position of public safety, regardless of when the use occurred; or ()

c. On a regular, confirmed basis within the past five (5) years. ()

d. This prohibition includes cannabis, hashish, hash oil, and THC in both synthetic and natural forms. ()

02. Other Controlled Substances. An applicant shall be rejected who has illegally used any Schedule I through Schedule VI controlled substance, as defined in Sections 37-2705 through 37-2713A, Idaho Code, excluding marijuana: ()

a. Within the past five (5) years; ()

b. While employed as a law enforcement officer, in a prosecutorial position, or in a position of public safety, regardless of when the illegal use occurred; or ()

c. On more than a minimal and experimental basis during the applicant’s lifetime. ()

03. Prescription Drugs. An applicant shall be rejected who has used any prescription drug or a legally obtainable controlled substance in a manner for which it was not intended within the past three (3) years. ()

04. Drug Trafficking, Manufacturing, and Related Offenses. Subject to the rules above regarding use of controlled substances, an applicant shall be rejected who has violated any provision of:: ()

a. The Idaho Uniform Controlled Substances Act, Section 37-2701 et seq., Idaho Code, including, but not limited to, the illegal sale or manufacture of a controlled substance or conspiring to illegally sell or manufacture a controlled substance; or ()

b. A comparable statute of another state or country. ()

c. Provided, however, that the POST Division Administrator may waive any misdemeanor conviction for violation of the Idaho Uniform Controlled Substances Act. When considering whether to grant such a waiver, the POST Division Administrator shall have the discretion to refer the application to the POST Council. ()

05. Juvenile Drug Offense Convictions. Any misdemeanor conviction of a drug offense prosecuted pursuant to Title 18, Chapter 15, Idaho Code, or a comparable statute of another state or country, shall not be a basis for rejection of an applicant. However, an applicant may be rejected who has been convicted of a felony drug offense prosecuted pursuant to Title 18, Chapter 15, Idaho Code. If an applicant has been convicted of such a felony drug offense, the applicant may be accepted upon approval of the POST Division Administrator, provided the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The POST Division Administrator shall have the discretion to refer the application to the POST Council. ()

0556. CRIMINAL RECORD.

01. Fingerprints. The applicant shall be fingerprinted on two (2) copies of the standard FBI Applicant fingerprint form, and a search made of local, state, and national fingerprint files to disclose any criminal record. The original copies of all records check results shall be retained by the POST Council. (4-2-03)

02. Conviction. The term "conviction" shall include: (4-2-03)

a. Any conviction in a federal, tribal, state, county, or municipal court; (3-15-02)

b. A voluntary forfeiture of bail, bond, or collateral deposited to secure a defendant's appearance in court as final disposition; (3-15-02)

c. The payment of a fine; (3-15-02)

d. A plea of guilty, nolo contendere; or (3-15-02)

e. A finding of guilt, notwithstanding the form of judgment or withheld judgment, regardless of whether the sentence is imposed, suspended, deferred, or withheld, and regardless of whether the plea or conviction is set aside or withdrawn, or the case or charge is dismissed or reduced, or the record expunged under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the setting aside of the plea or conviction, or dismissal or reduction of the case or charge, or expungement of the record is based upon lenity or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the plea, finding of guilt, or conviction. (3-29-12)

03. Misdemeanor Conviction. A misdemeanor conviction of any federal, state, or local crime may be grounds for rejection of ~~the an~~ applicant, subject to the following provisions: (4-2-03)()

a. An applicant shall be rejected who has been convicted of any misdemeanor sex crime, ~~or~~ crime of deceit, ~~or drug offense~~ unless the conviction occurred more than five (5) years prior to application and the applicant's agency head files a written request for review with the POST Council. In the case of a willful concealment or petit theft conviction, the applicant may be accepted upon approval of the POST Division Administrator, ~~and~~ the Division Administrator shall have the discretion to refer the application to the POST Council. In all other cases, the POST Council shall review the application and determine whether the ~~individual~~ applicant shall be certifiable in the ~~State~~ of Idaho. (3-29-12)()

b. An applicant shall be rejected who has been convicted of ~~a~~ one (1) or more misdemeanor DUI ~~during offenses within~~ the two (2) years immediately preceding application. No waivers to this rule shall be granted by the POST Council ~~for DUI convictions within the last two (2) years. If the conviction occurred more than two (2) years prior to application, the applicant may be accepted upon approval of the POST Division Administrator provided the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The Division Administrator shall have the discretion to refer the application to the POST Council.~~ (3-15-02)()

c. An applicant shall be rejected who has been convicted of two (2) or more misdemeanor DUI offenses within the five (5) years immediately preceding application. No waivers to this rule shall be granted by the POST Council. ()

d. An applicant who is not subject to the provisions of subsections (b) and (c) above may be rejected if the applicant has been convicted of one (1) or more misdemeanor DUI offenses within ten (10) years prior to application. Such an applicant may be accepted upon approval of the POST Division Administrator, provided the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The POST Division Administrator shall have the discretion to refer the application to the POST Council. This rule is not a basis for rejection of an applicant if the conviction occurred ten (10) or more years prior to application. ()

ee. An applicant ~~with~~ may be rejected who has been convicted of any other misdemeanor offense within the two (2) years immediately preceding application. If the misdemeanor conviction occurred within the two (2) years immediately preceding application, the applicant may be accepted upon approval of the POST Division Administrator, provided ~~the conviction occurred more than two (2) years prior to application and~~ the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The Division Administrator shall have the discretion to refer the application to the POST Council. ~~If the conviction occurred during the two (2) years immediately preceding application, the POST Council shall review the application and determine whether the individual shall be certifiable in the state of Idaho.~~ (3-29-12)()

f. An applicant may be rejected who has been convicted of any other misdemeanor offense two (2) or more years but less than ten (10) years prior to application. If the misdemeanor conviction occurred two (2) or more years but less than ten (10) years prior to application, the applicant may be accepted upon approval of the POST Division Administrator, provided the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The POST Division Administrator shall have the discretion to refer the application to the POST Council. This rule is not a basis for rejection of an applicant if the conviction occurred ten (10) or more years prior to application. ()

g. Any misdemeanor conviction prosecuted pursuant to Title 18, Chapter 15, Idaho Code, or a comparable statute of another state or country, shall not be a basis for rejection of an applicant. ()

04. Felony Conviction. An applicant shall be rejected who has been convicted of any felony crime, the punishment for which could have been imprisonment in a federal or state penal institution, unless the felony conviction occurred before the applicant was eighteen (18) years of age and ten (10) or more years prior to application. If the conviction occurred before the applicant was eighteen (18) years of age and ten (10) or more years prior to application, the applicant may be accepted upon approval of the POST Division Administrator, provided the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The POST Division Administrator shall have the discretion to refer the application to the POST Council. For the purpose of this rule, a felony conviction shall ~~continue to~~ be considered a felony conviction regardless of whether the conviction is later reduced to a misdemeanor conviction under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the reduction is based upon lenity or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the felony conviction. No waivers to this rule shall be granted by the POST Council. (3-29-12)()

0567. MILITARY RECORD.

01. Military Discharge. A "dismissal," "bad conduct discharge" (BCD), "dishonorable discharge" (DD), or administrative discharge of other than honorable (OTH) from the military service shall disqualify the applicant. The administrative discharge of "general under honorable conditions" (GEN), a "general" discharge, or an "uncharacterized" discharge may be grounds for rejection. In the case of a "general under honorable conditions" or "uncharacterized" discharge, the applicant may be accepted upon approval of the POST Division Administrator. The Division Administrator shall have the discretion to refer the application to the POST Council. In the case of a "general" discharge, the POST Council shall review the application and determine whether the individual shall be certifiable as a peace, detention, juvenile detention, juvenile probation, adult probation and parole, or adult misdemeanor probation officer or as a direct care staff member of the Idaho Department of Juvenile Corrections in

the state of Idaho. (4-7-11)

02. Documentation. Proof of military record shall not have been mutilated, altered, or damaged; shall indicate character of service; and shall be in the form of a photocopy of the following: (4-7-11)

a. DD-214 for any active military service, (4-7-11)

b. NGB Form 22 for any National Guard service, and (4-7-11)

c. AF-216 for any Air Force service. (4-7-11)

0578. TRAFFIC RECORD INVESTIGATION.

01. Requirements. (7-1-93)

a. The applicant shall possess a valid driving license from his state of residence and qualify for an Idaho driver's license. (3-15-02)

b. An applicant with a record of a driver's license suspension in any jurisdiction, or a driving without privileges conviction or an equivalent conviction in any other jurisdiction, may be accepted upon approval of the POST Division Administrator provided the suspension concluded or conviction occurred more than two (2) years prior to application and the applicant's agency head, with knowledge of the facts and circumstances concerning the suspension or conviction, recommends approval. The Division Administrator shall have the discretion to refer the application to the POST Council. If the suspension concluded or conviction occurred during the two (2) years immediately preceding application, the POST Council shall review the application and determine whether the individual shall be certifiable as a peace, detention, or juvenile detention officer in the state of Idaho. (3-15-02)

c. Where the applicant's traffic record discloses the commission of five (5) or more moving traffic offenses during the three (3) years immediately preceding application, the POST Council shall review the application and determine whether the individual shall be certifiable as a peace, detention, or juvenile detention officer in the state of Idaho. (3-15-02)

02. Procedures. At a minimum, a check of driving records shall be made of the Motor Vehicle Division, Highway Department, state of Idaho, and the files of the motor vehicle department in the states of the applicant's previous residences. (3-15-02)

0589. BACKGROUND INVESTIGATION.

01. Requirements. The applicant shall have undergone a comprehensive background investigation, the results of which attest to the fact that the person meets the minimum standards for employment, has not engaged in conduct or a pattern of conduct that would jeopardize public trust in the law enforcement profession, and is of good moral character. Consideration will be given to any and all law violations, including traffic and fish and game infractions or convictions. (3-15-02)

02. Procedures. (3-15-02)

a. The applicant shall complete and submit to the appointing law enforcement agency a comprehensive application and personal history statement prior to the start of the background investigation. The history statement shall contain questions which aid in determining whether the applicant is eligible for certified status as a peace, detention, juvenile detention, or juvenile probation officer. The background investigation shall include information provided by personal references, schools, and the last three (3) previous employers, as well as law enforcement agency records in jurisdictions where the applicant has lived or worked. This information shall be recorded and retained by the appointing agency. (4-2-08)

b. The appointing agency shall conduct a personal interview with the applicant to ascertain personal attributes such as personal appearance, demeanor, attitudes that are relevant to the law enforcement mission, judgment, maturity, resourcefulness, and ability to communicate. Searching questions shall be asked about: (3-15-02)

- i. Use of intoxicants, narcotics and drugs; (3-15-02)
 - ii. Physical, mental, and emotional history; (3-15-02)
 - iii. Family problems; (3-15-02)
 - iv. Moral outlook and habits; and (3-15-02)
 - v. Financial transactions. (3-15-02)
- c.** The appointing agency shall have a thorough investigation into the character and reputation of the applicant conducted by an experienced investigator. The applicant's morality, integrity, reputation, honesty, dependability, qualifications, experience, associations, emotional stability, prejudice, and loyalty shall be explored. (3-15-02)
- d.** All results of the background investigation shall be considered confidential and processed accordingly. (3-15-02)
- e.** The results of the background investigation shall ultimately be evaluated by the agency head and/or the appointing authority to determine whether the applicant is suitable. (3-15-02)

05960. PHYSICAL - MEDICAL.

01. Requirements. (7-1-93)

a. Hearing. The applicant shall have unaided or aided hearing between zero (0) and twenty-five (25) decibels for each ear at the frequencies of five-hundred (500) Hz, one thousand (1000) Hz, two thousand (2000) Hz, and three thousand (3000) Hz. Waiver of the above may be considered by the POST Division Administrator if accompanied by the certificate of an audiologist or ear, nose, and throat physician that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. The POST Division Administrator shall have the discretion to refer the application to the POST Council. (4-7-11)

b. Vision. (7-1-93)

i. The applicant shall possess binocular coordination that does not manifest diplopia; depth of proficiency of a minimum of one (1) minute of arc at twenty (20) feet; peripheral vision shall be binocularly two hundred (200) degrees laterally with sixty (60) degrees upward and seventy (70) degrees downward. There shall be no pathology of the eye; applicant shall possess a minimum seventy percent (70%) proficiency on a color discrimination test. Waiver of the above may be considered by the POST Division Administrator if accompanied by the certificate of a vision specialist that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. The POST Division Administrator shall have the discretion to refer the application to the POST Council. (4-7-11)

ii. The applicant shall have uncorrected vision in each eye of no weaker than twenty/two hundred (20/200) with the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). An applicant who wears contact lenses is exempt from the uncorrected vision of twenty/two hundred (20/200), but shall have the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). A full eye examination shall be administered by an optometrist or ophthalmologist to any applicant who wears glasses whose uncorrected vision in either eye is twenty/one hundred fifty (20/150) or weaker. Waiver of the above may be considered by the POST Division Administrator if accompanied by the certificate of a vision specialist that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. The POST Division Administrator shall have the discretion to refer the

application to the POST Council.

(4-7-11)

c. Disease/Condition. The applicant shall be free from any impediments of the senses of sight, hearing, taste, smell, and touch; physically sound; well developed physically and in possession of his extremities; free from any physical defects, chronic or organic diseases, organic or functional conditions, or emotional or mental instabilities which may tend to impair efficient performance of duty or which might endanger the lives of others or the life of the officer. Waiver of the above may be considered by the Council upon the applicant's demonstration that the deficiency does not jeopardize or impair his ability to perform the duties of a peace, detention, juvenile detention, juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections.

(4-7-11)

d. Agency Physical Readiness Test. To determine the applicant's physical capability, a physical readiness test based upon the job requirements of the appointing agency shall be administered by the appointing agency to each applicant.

(4-7-11)

02. Procedures.

(7-1-93)

a. A POST Council-approved medical history form shall be supplied by each applicant to the examining physician. The medical history shall include information on past and present diseases, injuries and operations.

(4-7-11)

b. A medical examination shall be administered by a licensed physician or his designee to determine if the applicant is free from any physical, emotional, or mental condition which might adversely affect the applicant's ability to perform the duties of a peace, detention, juvenile detention, juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. The physician shall record his findings on the appropriate form and shall note thereon any past or present physical defects, diseases, injuries, operations or conditions of an abnormal or unusual nature, or indications of mental or emotional instability. A medical examination shall remain valid for one (1) year unless extended by the POST Division Administrator under extraordinary conditions and for good cause shown.

(3-27-13)

0601. MENTAL EXAMINATION.

01. Requirement. Where a question of emotional stability or disorder is indicated by the physician's report or the background investigation, a thorough evaluation shall be made by a licensed psychiatrist or clinical psychologist to determine if the applicant is free from any emotional or mental condition which might adversely affect the applicant's ability to perform the duties of a peace, detention, juvenile detention, or juvenile probation officer.

(4-2-08)

02. Procedure. During the interview, the examining psychiatrist or psychologist shall evaluate the applicant sufficiently to assess those symptoms of a degree that would impair the effective performance of duty. The results of the examination shall be recorded and that record or a summary of recommendations shall be forwarded to the appointing authority for review.

(3-15-02)

0612. APTITUDE.

The applicant shall be evaluated on the agency-approved aptitude test to determine if the applicant possesses the aptitude, capacity, and adaptability for absorbing and understanding the training and skills which are essential to the performance of the law enforcement function.

(3-15-02)

0623. EXCEPTIONS.

The required minimum standards for employment are not applicable to the director of the Idaho State Police or any elected official.

(4-2-08)

0634. CODE OF ETHICS/STANDARDS OF CONDUCT.

Each applicant shall attest that he has read, understands, and will abide by the POST Council's Code of Ethics as standards of professional conduct and that he has read and understands the conduct that may constitute cause for decertification as found in the POST Council's Code of Ethics and Subsections 091.03 and 091.04.

(3-27-13)

01. Fundamental Duty. As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality and justice. (3-21-12)

02. Personal and Official Life. I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or my agency. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret, unless revelation is necessary in the performance of my duty. (3-21-12)

03. Appropriately Enforce the Law. I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and the relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities. (3-21-12)

04. Public Trust. I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of law enforcement service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other law enforcement officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice. (3-21-12)

05. Professional Performance. I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement. (3-21-12)

06~~4~~5. PROBATIONARY PERIOD.

01. Probation. Every officer appointed by an agency below the level of agency head shall satisfactorily complete a probationary period of not less than six (6) months. This requirement shall also apply to officers who transfer laterally into an agency. (3-15-02)

02. Supervisor/Mid-Manager. Every officer who is promoted or appointed to a supervisory, middle management, or assistant agency head position shall satisfactorily complete a probationary period of not less than six (6) months in that position. (3-15-02)

03. Extended. No peace, detention, juvenile detention, or juvenile probation officer who lacks the training qualifications required by the Council shall have his temporary or probationary employment extended beyond one (1) year by renewal of appointment or otherwise. (4-2-08)

06~~5~~6. SPECIAL PROVISIONS.

01. Minimum Standards. It is emphasized that these are minimum standards for employment. Higher standards are recommended whenever the availability of qualified applicants meets the demand. (7-1-93)

02. No Discrimination. No agency shall discriminate as to employment against any persons on the basis of race, creed, color, or sex, pursuant to state or federal law. (3-15-02)

03. Equal Opportunity Employer. Every agency shall be an equal opportunity employer. (3-15-02)

06~~6~~7. -- 069. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

327. ADMINISTRATION.

01. POST Council Administrative Rules. The vocational college law enforcement program must shall maintain access to a current copy of the POST Council's Administrative Rules. (4-11-06)()

02. Advisory Board/Committee. The vocational college law enforcement program must shall have an advisory board/committee comprised of the POST Division Administrator or his designee and criminal justice executives from several area agencies/organizations representative of the region the vocational college law enforcement program serves. (4-11-06)()

a. The advisory board/committee must shall elect a chairman and vice-chairman from among the agency heads on the board/committee. The terms of office should shall be initially staggered. No chairman or vice-chairman may shall serve in that capacity for longer than four (4) consecutive years. (4-11-06)()

b. The chairman or vice-chairman is responsible for scheduling and setting the agendas for all advisory board/committee meetings as well as for working with the program coordinator and/or administration of the vocational college law enforcement program. The chairman or vice-chairman may perform other duties as necessary. (4-11-06)()

03. Waiver Requests. The chairman of the advisory board/committee may request a waiver ~~from the POST Division Administrator, as allowed in the Minimum Standards for Employment provided in Sections 050 thru 064 of these rules,~~ for a student ~~who, more than two (2) years prior to application, was convicted of DUI; a misdemeanor other than a sex crime, crime of deceit, or drug offense; driving without privileges; had his driver's license suspended; or received a "general under honorable conditions" or "uncharacterized" discharge from the military service.~~ by following these procedures: (3-30-07)()

a. The advisory board/committee chairman must shall conduct a thorough background investigation to include the review of all police and court documents, including arrest reports and court dispositions; military records; and a written explanation from the student fully describing the circumstances and disposition of each arrest and incident. (3-30-07)()

b. The advisory board/committee chairman has sole discretion in determining whether a waiver should shall be requested. The advisory board/committee may be afforded an appeal at the chairman's discretion or if the advisory board/committee has a policy in place. (4-11-06)()

c. If the advisory board/committee chairman determines that a waiver should shall be pursued, he must shall submit a written request along with all documentation to the POST Division Administrator. The request must shall indicate that the advisory board/committee is aware of the arrest or incident, has investigated the circumstances surrounding the arrest or incident, and that he recommends approval of a waiver. (3-30-07)()

d. ~~If the POST Division Administrator denies a request for a waiver, the decision is final unless the student obtains employment with an Idaho law enforcement agency and that agency requests a waiver from the POST Council.~~ (4-11-06)