

Dear Senators LODGE, Nonini, Burgoyne, and
Representatives WILLS, Dayley, Gannon:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Idaho State Police - Idaho State Police - POST:

IDAPA 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council - Proposed
Rule (Docket No. 11-1101-1601);

IDAPA 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council - Temporary and
Proposed Rule (Docket No. 11-1101-1602);

IDAPA 11.11.02 - Rules of the Idaho Peace Officer Standards and Training Council - Proposed
Rule (Docket No. 11-1102-1601);

IDAPA 11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction
Officers and Adult Probation and Parole Officers - Proposed Rule (Docket No.
11-1104-1601).

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 11/04/2016. 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 12/06/2016.

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 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
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 - Ryan Bush

DATE: October 18, 2016

SUBJECT: Idaho State Police - Idaho State Police - POST

IDAPA 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council - Proposed Rule (Docket No. 11-1101-1601)

IDAPA 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council - Temporary and Proposed Rule (Docket No. 11-1101-1602)

IDAPA 11.11.02 - Rules of the Idaho Peace Officer Standards and Training Council - Proposed Rule (Docket No. 11-1102-1601)

IDAPA 11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers - Proposed Rule (Docket No. 11-1104-1601)

(1) 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council - Proposed Rule (Docket No. 11-1101-1601)

The Idaho State Police (ISP) submits notice of proposed rulemaking at IDAPA 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council. This rulemaking does the following:

- (a) Clarifies the definition of "law enforcement profession" for the purpose of establishing agreements to serve agreements with officers attending POST training;
- (b) Revises the minimum absolute prohibition of marijuana use by an applicant from three years to one year and the prohibition on regular and confirmed use of marijuana from five years to three years;
- (c) Simplifies the driver license status requirements for applicants with respect to suspensions that concluded within ten years prior to application; and
- (d) Clarifies the "Agreement to Serve" for officers including the requirements, exemptions and proration for reimbursement of training costs for officers who do not remain in law enforcement for two years.

ISP states that negotiated rulemaking was not conducted because the rule is simple in nature and affected parties were involved in the drafting. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to ISP in Section 19-5107, Idaho Code.

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

(2) 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council - Temporary and Proposed Rule (Docket No. 11-1101-1602)

The Idaho State Police (ISP) submits notice of temporary and proposed rulemaking at IDAPA 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council. This rulemaking establishes the requirement for a POST compliance review of each applicant to include a provision for inspection of the hiring agency's background investigation file. ISP states that this is being done to bring the rules into compliance with Section 19-5109(1)(g), Idaho Code.

ISP states that negotiated rulemaking was not conducted because the rule is simple in nature and affected parties were involved in the drafting. There is no fiscal impact associated with this rulemaking.

The temporary and proposed rule appears to be within the statutory authority granted to ISP in Section 19-5107, Idaho Code.

(3) 11.11.02 - Rules of the Idaho Peace Officer Standards and Training Council - Proposed Rule (Docket No. 11-1102-1601)

The Idaho State Police (ISP) submits notice of proposed rulemaking at IDAPA 11.11.02 - Rules of the Idaho Peace Officer Standards and Training Council. ISP states that this rulemaking simplifies language and clarifies certification requirements for part-time juvenile detention officers and eliminates the use of non-POST certified instructors for basic training.

ISP states that negotiated rulemaking was not conducted because the rule is simple in nature and affected parties were involved in the drafting. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to ISP in Sections 19-5107 and 19-5109, Idaho Code.

(4) 11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers - Proposed Rule (Docket No. 11-1104-1601)

The Idaho State Police (ISP) submits notice of proposed rulemaking at IDAPA 11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers. ISP states that this rule eliminates duplicative language regarding minimum standards for employment for correction officers and adult probation and parole officers. The rule now references the sections of IDAPA for the minimum standards for employment for all other disciplines governed by POST.

ISP states that negotiated rulemaking was not conducted because the rule is simple in nature and affected parties were involved in the drafting. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to ISP in Section 19-5107, Idaho Code.

cc: Idaho State Police - Idaho State Police - POST
Victor McCraw

IDAPA 11 - IDAHO STATE POLICE

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

DOCKET NO. 11-1101-1601

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 October 19, 2016.

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:

Section 010: Clarifies the definition of "Law Enforcement Profession" for the purpose of establishing and administering agreements to serve agreements with peace officers attending POST training programs.

Section 055: Establishes the minimum absolute prohibition of any marijuana use as one year, and the regular and confirmed use of marijuana as three years, prior to application for POST for training or certification.

Section 058: Simplifies the driver license status requirements for applicants for POST training or certification, with respect to suspensions which concluded within ten (10) years prior to application.

Section 081: Simplifies and clarifies the "Agreement to Serve" requirements of, exemptions from, and proration for reimbursement of training costs to POST for officers who do not remain in the Idaho law enforcement profession for a minimum of two (2) years.

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 the rule is simple in nature and representatives of the affected interests 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 Victor McCraw 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 October 26, 2016.

DATED this 2nd day of September, 2016.

Victor McCraw
POST Division Administrator
Idaho 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. 11-1101-1601
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

- 01. Act.** Title 19, Chapter 51, of the Idaho Code. (4-5-00)
- 02. Adult Probation and Parole Officer.** Any employee of the Idaho Department of Correction who is responsible for the supervision of offenders on probation or parole. (3-30-07)
- 03. Agency.** A law enforcement agency which is a part of or administered by the state or any political subdivision thereof and which is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; a juvenile detention center; a juvenile probation department; the Idaho Department of Correction; or a private prison contractor of the State Board of Correction that is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the facility. (4-2-08)
- 04. Agency Head.** A chief of police of a city, sheriff of a county, or chief administrator of any law enforcement agency of the state of Idaho or any political subdivision thereof who is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; the chief administrator of a juvenile detention center; the chief administrator of a juvenile probation department; the director of the Idaho Department of Correction; or the chief administrator of a private prison contractor of the State Board of Correction that is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the facility. (4-2-08)
- 05. Applicant.** Any person applying to participate in a POST training program or applying for POST certification. (4-2-08)
- 06. Basic Adult Probation and Parole Academy.** A basic course of instruction for Adult Probation and Parole Officers as recognized by POST Council. (4-2-08)
- 07. Basic Correction Academy.** A basic course of instruction for Correction Officers as recognized by POST Council. (4-2-08)
- 08. Basic Detention Academy.** A basic course of instruction for Detention Officers as recognized by POST Council. (4-2-08)
- 09. Basic Juvenile Detention Academy.** A basic course of instruction for Juvenile Detention Officers as recognized by POST Council. (4-2-08)
- 10. Basic Juvenile Probation Academy.** A basic course of instruction for Juvenile Probation Officers as recognized by POST Council. (4-2-08)
- 11. Basic Patrol Academy.** A basic course of instruction for Patrol Officers as recognized by POST Council. (4-2-08)
- 12. College Credit.** A unit of work towards a baccalaureate or vocational degree accepted by a college or university of higher education accredited by the Northwest Association of Schools and Colleges or other POST-accepted U.S. regional accrediting agency. (3-18-15)
- 13. Correction Officer.** Any employee of an Idaho Department of Correction facility or private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the correction facility. (3-30-07)

14. Correction Standards and Training Council. An advisory group to the POST Council that is comprised of members from academia and law enforcement agencies. The purpose of the Correction Standards and Training Council is to advise POST Council in the planning, development, and operation of the Basic Correction Academy and the Basic Adult Probation and Parole Academy. (4-2-08)

15. Council. The Idaho Peace Officer Standards and Training Council. (4-2-08)

16. County Detention Officer. An employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates. (4-5-00)

17. Crime of Deceit. Any offense described in Section 18-1301 et seq., Idaho Code, (Bribery), Section 18-1401 et seq. (Burglary), Sections 18-1901 (Fictitious Stock Subscription), 18-1902 (Exhibition of False Papers to Public Officers), 18-1903 (Use of False Name in Prospectus), 18-1904 (Illegal Dividends and Reductions of Capital), 18-1905 (Falsification of Corporate Books), 18-1906 (Fraudulent Reports by Officers), 18-2202(1) (Computer Crime), 18-2302 (False Swearing as to Qualifications as Voter), 18-2304 (Procuring Illegal Votes), 18-2305 (Intimidation, Corruption and Frauds), 18-2306 (Illegal Voting or Interference with Election), 18-2307 (Attempting to Vote When Not Qualified or to Repeat Voting), 18-2309 (Officers Attempting to Change Result), 18-2310 (Forging or Counterfeiting Returns), 18-2311 (Adding to or Subtracting From Votes), 18-2316 (Tampering with Certificates of Nomination or Ballots), 18-2320 (Bribery of Electors), Section 18-2401 et seq. (Theft), Section 18-2601 et seq. (Falsifying Evidence -- Offering Forged or Fraudulent Documents in Evidence), Section 18-2701 et seq. (Bribery of Executive Officers), Sections 18-3105 (False Statement by Commission Merchant, Broker, Agent, Factor or Consignee to Principal or Consignor), 18-3106 (Drawing Check Without Funds -- Drawing Check With Insufficient Funds -- Prima Facie Evidence of Intent -- Standing of Person Having Acquired Rights -- Probation Conditions), 18-3123 (Forgery of a Financial Transaction Card), 18-3124 (Fraudulent Use of a Financial Transaction Card), 18-3125 (Criminal Possession of Financial Transaction Card and FTC Forgery Devices), 18-3125A (Unauthorized Factoring of Credit Card Sales Drafts), 18-3126 (Misappropriation of Personal Identifying Information), 18-3127 (Receiving or Possessing Fraudulently Obtained Goods or Services), 18-3201 (Officer Stealing, Mutilating or Falsifying Public Records), 18-3202 (Private Person Stealing, Mutilating or Falsifying Public Records), 18-3203 (Offering False or Forged Instrument for Record), 18-3204 (False Certificates or Other Instruments from Officers), 18-3206 (Mutilating Written Instruments), Section 18-3601 et seq. (Forgery), Sections 18-4616 (Defacing Marks on Logs or Lumber), 18-4617 (Stealing Rides on Trains), 18-4621 (Stealing Electric Current -- Tampering with Meters), 18-4622 (Stealing Electric Current -- Accessories Liable as Principals), 18-4624 (Taken or Converted Merchandise as Theft), 18-4626 (Willful Concealment of Goods, Wares or Merchandise -- Defense for Detention), 18-4630 (Illegal Use of Documents), 18-4701 (Alteration of Bills), 18-4702 (Alteration of Enrolled Copies), 18-4703 (Offering Bribes to Legislators), 18-4704 (Legislators Receiving Bribes), Section 18-5401 et seq. (Perjury), Section 18-6501 et seq. (Robbery), Sections 18-8201 (Money Laundering and Illegal Investment -- Penalty -- Restitution), 41-293 (Insurance Fraud), 41-294 (Damage to or Destruction of Insured Property), 41-1306 (False Financial Statements), 49-228 (Receiving or Transferring Stolen Vehicles), 49-231 (Farm Implements -- Purchasing or Selling When Identifying Number Altered or Defaced a Felony), 49-232 (Fraudulent Removal or Alteration of Numbers Prohibited), 49-518 (Altering or Forging Certificate -- Stolen Cars -- Destroying or Altering Engine or Decal Number -- Use of Fictitious Name -- Fraud), or any attempt, conspiracy or solicitation to commit any of the foregoing offenses, or any racketeering offense under Section 18-7801 et seq., Idaho Code, in which any of the foregoing offenses constitutes at least one (1) of the predicate acts, or any other crime defined in the Idaho Code involving any form of theft or including fraudulent intent as an element, or an offense equivalent to any of the foregoing in any other jurisdiction. (4-2-08)

18. Direction. Direction, at its broadest term, allows an employing agency to utilize a Level II reserve officer to work under the immediate presence and direction of a full-time peace officer of the same agency. This does not allow a Level II reserve officer to operate alone in his official capacity. He must be under direct observation and control of the agency's full-time peace officer. (3-25-16)

19. Field Training. Training in which an individual receives formal instruction on the job for special and defined purposes. (7-1-93)

20. Full Time. Employment of one hundred sixty (160) hours or more per month for ninety (90) consecutive calendar days. (4-2-08)

21. In-Service Training. Training designed to refresh or add to an individual's capabilities to do the task to which they are or may be assigned. (7-1-93)

22. Juvenile Detention Center. A juvenile detention facility that is part of or administered by the county or any political subdivision thereof and is responsible for the safety, care, protection, and monitoring of juvenile offenders. (4-2-08)

23. Juvenile Detention Officer. Any employee of a juvenile detention center who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center. (4-2-08)

24. Juvenile Probation Officer. Any employee of a juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders. (4-2-08)

25. Juvenile Training Council. An advisory group to the POST Council that is composed of the Director of the Department of Juvenile Corrections, a Magistrate, a county Juvenile Detention Director, a county Chief Probation Officer, a county Commissioner, a county Clerk, and a county Sheriff. The purpose of the Juvenile Training Council is to advise POST Council in the planning, development, and operation of the Juvenile Detention and Juvenile Probation Academies. (4-2-08)

26. Law Enforcement Profession. As used in agreements authorized pursuant to Section 19-5112, Idaho Code, ~~means an employee of a police or law enforcement agency that is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; an employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates; an employee of a juvenile detention center that is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center; an employee of a county juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders; an employee of an Idaho Department of Correction facility or private prison contractor of the State Board of Correction who is responsible for the first line supervision, security, protection, and risk reduction of offenders housed in the correction facility; or an employee of the Idaho Department of Correction who is responsible for the supervision of offenders on probation or parole~~ the positions that fulfill the agreement are Peace Officer, County Detention Officer, Communications Specialist, Juvenile Detention Officer, Juvenile Probation Officer, Correction Officer, Adult Probation and Parole Officer, Idaho Department of Juvenile Corrections Direct Care Staff, and Misdemeanor Probation Officer. (4-2-08)()

27. Manual. This book of Rules as adopted by the Idaho Peace Officer Standards and Training Council. (4-5-00)

28. Part Time. Employment of less than one hundred sixty (160) hours per month for ninety (90) consecutive calendar days. (4-2-08)

29. Part-Time Juvenile Detention Officer. Any employee of a juvenile detention center that is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center, and does not meet the definition of "employee" as defined in Section 59-1302, Idaho Code. (4-2-08)

30. Peace Officer. Any employee of a police or law enforcement agency which is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. "Peace officer" also means an employee of a police or law enforcement agency of a federally recognized Indian tribe who has satisfactorily completed the peace officer standards and training academy and has been deputized by a sheriff of a county or a chief of police of a city of the state of Idaho. (4-5-00)

31. POST. The Idaho Peace Officer Standards and Training Program. (7-1-93)

- 32. POST Basic Training Academy.** The Basic Adult Probation and Parole Academy, the Basic Correction Academy, the Basic Detention Academy, the Basic Juvenile Detention Academy, the Basic Juvenile Probation Academy, or the Basic Patrol Academy. (4-2-08)
- 33. POST Certified Instructor.** Any person certified by the Idaho POST Council as being qualified to instruct or assess students in a course of instruction which meets POST standards for certification or training credit. (3-25-16)
- 34. Prosecutor.** A city prosecuting attorney, city assistant prosecuting attorney, county prosecuting attorney, county deputy prosecuting attorney, attorney general, deputy attorney general, United States attorney, or assistant United States attorney. (4-2-03)
- 35. Reserve Peace Officer.** An individual assigned by an agency to perform the duties of a peace officer on a part-time basis. All reserve officers must be under supervision as set forth in these rules unless they hold a current Part-Time Basic certificate. (3-25-16)
- 36. School.** Any school, college, university, academy, or local training program which offers law enforcement training and includes within its meaning the combination of course curriculum, instructors and facilities, or any training session as certified by POST. (7-1-93)
- 37. School Director or Coordinator.** An individual charged with the responsibility of conducting a training school under the provisions of the Act. (7-1-93)
- 38. Specification.** A description of a requirement supplementing a section of the Rules. (7-1-93)
- 39. Supervision.** Supervision allows the employing agency to utilize a Level I reserve officer to work by himself without the immediate presence or direction of a full-time peace officer, but acting under the overall on-duty supervision of an on-duty, full-time peace officer. This may allow a Level I reserve officer to work alone in his jurisdiction, without immediate oversight of an agency full-time peace officer, as long as there were another full-time peace officer of the agency working at the same time to provide supervision of the Level I reserve officer's activities. (3-29-12)
- 40. Temporary.** Employment of less than ninety (90) consecutive calendar days. (7-1-93)
- 41. Trainee.** An officer participating in any POST approved training program. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

055. DRUG USE.

- 01. Marijuana.** An applicant must be rejected who has used marijuana: (4-11-15)
- a.** Within the past ~~three (3)~~ years; ~~(3-20-14)~~()
- 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 (3-20-14)
- c.** On a regular, confirmed basis within the past ~~five~~ ~~three (3)~~ years. ~~(3-20-14)~~()
- d.** This prohibition includes use of cannabis, hashish, hash oil, and THC in both synthetic and natural forms. (4-11-15)
- 02. Other Controlled Substances.** An applicant must 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: (4-11-15)

- a. Within the past five (5) years; (3-20-14)
 - 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 (3-20-14)
 - c. On more than a minimal and experimental basis during the applicant's lifetime. (3-20-14)
- 03. Prescription Drugs.** An applicant may be rejected who has unlawfully used any prescription drug or a legally obtainable controlled substance within the past three (3) years. (4-11-15)
- 04. Drug Trafficking, Manufacturing, and Related Offenses.** Subject to the rules above regarding use of controlled substances, an applicant must be rejected who has violated any provision of: (4-11-15)
- 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 (3-20-14)
 - b. A comparable statute of another state or country. (3-20-14)
 - c. Provided, however, that the POST Division Administrator may waive any misdemeanor conviction for violation of the Idaho Uniform Controlled Substances Act. (4-11-15)
- 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. (4-11-15)

(BREAK IN CONTINUITY OF SECTIONS)

058. TRAFFIC RECORD INVESTIGATION.

- 01. Requirements.** (7-1-93)
 - a. The applicant ~~shall~~ **must** 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~~ **may be rejected who has** a driver's license suspension in any jurisdiction, ~~or a driving without privileges conviction or an equivalent conviction in any other jurisdiction,~~ **within the ten (10) years immediately preceding application. If the suspension concluded within the ten (10) years prior to application, the applicant** 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~~ **has** 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. This rule is not a basis for rejection of an applicant if the suspension concluded ten (10) or more years prior to application.~~ ~~(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~~ **must** review the application and determine whether the individual ~~shall will~~ 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~~ **must** 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)~~()

(BREAK IN CONTINUITY OF SECTIONS)

081. AGREEMENT TO SERVE.

01. Agreement. Pursuant to Section 19-5112, Idaho Code, any ~~peace~~ officer attending ~~such schools or programs or directly or indirectly receiving the aid authorized by Section 19-5109, Idaho Code, shall~~ **a POST-funded Basic Training Academy must** execute an agreement ~~whereby said officer promises~~ **promising** to remain within the law enforcement profession, as defined in Subsection 010.26, ~~on a full-time basis,~~ in the state of Idaho ~~in a position approved by the Council~~ for two (2) years following graduation from the POST Basic Training Academy. **Violation of the terms of the agreement will give rise to a civil action which may be commenced by the council for and on behalf of the state of Idaho for restitution of any and all sums paid by the council plus costs and reasonable attorney's fees.**

~~(3-30-07)~~()

02. Fulfillment of Agreement. **The agreement will be considered fulfilled if the officer remains within the law enforcement profession, as defined in Subsection 010.26, in the state of Idaho as follows:** ()

a. The officer serves on a full-time basis for two (2) years following graduation from the POST Basic Training Academy; or ()

b. The officer serves on a part-time basis and provides the Council with documentation substantiating service of 4,160 (four thousand one hundred sixty) hours following graduation from the POST Basic Training Academy. ()

03. Disqualifications. ()

a. An officer terminated by the appointing agency due to agency budget cutbacks or loss of funding for the position will not owe the Council the amount set forth in the agreement. The appointing agency must provide the Council with a letter stating the officer was terminated due to the agency's inability to fund the position. ()

b. An officer forced to resign due to his own or an immediate family member's terminal illness or prolonged debilitating condition will not owe the Council the amount set forth in the agreement. The officer must provide the Council with documentation from the attending physician substantiating the medical condition. ()

024. Pay Back Reimbursement. ~~Except as provided below, a~~ Any ~~peace~~ officer who ~~fails to remain within the law enforcement profession, as defined in Subsection 010.26, on a full-time basis, in the state of Idaho in a position approved by the Council for two (2) years following graduation~~ **graduates** from the POST Basic Training Academy, ~~shall be required to pay back to~~ **whose employment is terminated prior to their fulfillment of the agreement pursuant to Subsection 081.02 or does not qualify for disqualification pursuant to Subsection 081.03 must reimburse** the Council, ~~the full amount of money set forth in the agreement for their training expenses. For the purposes of this rule, an officer who leaves full-time employment in the law enforcement profession and has not worked four thousand one hundred sixty (4,160) or more hours during the two (2) years following graduation from the POST Basic Training Academy shall be deemed to have failed to remain within the law enforcement profession, on a full-time basis, for two (2) years following graduation from the POST Basic Training Academy. This includes, but is not limited to, any officer who resigns, does not pass his probationary period, resigns in lieu of termination, or is terminated for cause by the appointing agency.~~

~~(3-30-07)~~()

05. Proration. ()

a. If the officer remains within the law enforcement profession, as defined in Subsection 010.26, in

the state of Idaho on a full-time basis for less than twelve (12) complete months following graduation from the POST Basic Training Academy, he must reimburse the Council the full amount of money set forth in the agreement. ()

~~**a.b.** If the officer remains within the law enforcement profession, as defined in Subsection 010.26, in excess of the state of Idaho on a full-time basis for a minimum of twelve (12) complete months following graduation from the POST Basic Training Academy but less than twenty-four (24) complete months and the officer's work within the law enforcement profession during that period averaged at least one hundred sixty (160) hours per month, the amount owed to the Council under Subsection 081.02 shall be prorated monthly and shall will be reduced proportionately for each complete month worked from the date of graduation in which the officer was employed within the law enforcement profession for at least one hundred sixty (160) hours per month to the date of termination.~~ (4-2-03)()

~~**b.** If the officer resigns or is terminated for cause by the appointing agency, he shall owe the Council the amount set forth in the agreement. (3-15-02)~~

~~**c.** If the officer is terminated through no fault of his own by the appointing agency, he shall not owe the Council the amount set forth in the agreement. The agency shall provide the Council a letter stating that the officer was terminated through no fault of his own remains within the law enforcement profession, as defined in Subsection 010.26, in the state of Idaho on a part-time basis, and provides the Council with documentation substantiating a minimum of 2,080 (two thousand eighty) hours service following graduation from the POST Basic Training Academy, but less than 4,160 (four thousand one hundred sixty) hours, the amount owed to the Council will be reduced proportionately for each one hundred seventy-three (173) hours worked from the date of graduation to the date of termination.~~ (3-15-02)()

~~**03. Pay Back, Part-Time Basic Certificate.** Any peace officer who is awarded a part-time basic certificate who fails to remain employed within the law enforcement profession in a position approved by the Council for the same amount of hours required in Subsection 081.02, shall be required to pay back to the Council the full amount of money set forth in the agreement. (4-2-03)~~

~~**04. Position.** The Council shall approve or disapprove positions on a case-by-case basis, after affording officers the opportunity to present information as to the duties, nature, and scope of the position. (3-15-02)~~

~~**06. Multiple POST Basic Training Academies.** An officer who graduates from more than one (1) POST Basic Training Academy must fulfill a two-year agreement for each academy attended. ()~~

IDAPA 11 - IDAHO STATE POLICE

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

DOCKET NO. 11-1101-1602

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2016.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. 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 October 19, 2016.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Establishes the requirement for a POST compliance review of each applicant to include a provision for inspection of the hiring agency's background investigation file for the purpose of fulfilling the requirements of Section 19-5109(1)(g), Idaho Code, which states: (1) It shall be the duty of and the council shall have the power: (g) To certify peace officers as having completed all requirements established by the council in order to be eligible for permanent employment as peace officers in this state."

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule will accommodate the recent determination of the FBI that POST, and other entities similar to POST in other states, are not a "law enforcement" entity and, as such, do not have access to the National Criminal Information Center (NCIC) to perform criminal history checks of POST applicants. The revision enhances POST's ability to maintain agency accountability in the short term and will still be applicable when POST is eventually granted criminal history access again.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature, and representatives of the affected interests 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 Victor McCraw 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 October 26, 2016.

DATED this 2nd day of September, 2016.

Victor McCraw
POST Division Administrator
Idaho Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642
Phone (208) 884-7251 / Fax (208) 884-7295

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 11-1101-1602
(Only Those Sections With Amendments Are Shown.)**

059. BACKGROUND INVESTIGATION.

01. Requirements. (9-1-16)T

a. The applicant ~~shall~~ **must** 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)~~(9-1-16)T

b. The appointing agency must collect and verify the necessary documents and compile and retain a comprehensive background investigation file establishing that the applicant meets all of the required minimum standards or provisions for employment as provided in Sections 050 through 065. (9-1-16)T

02. Procedures. (3-15-02)

a. The applicant ~~shall~~ **must** 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~~ **must** 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~~ **must** 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~~ **must** be recorded and retained by the appointing agency. ~~(4-2-08)~~(9-1-16)T

b. The appointing agency ~~shall~~ **must** 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~~ **must** be asked about: ~~(3-15-02)~~(9-1-16)T

- 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~~ **must** 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~~ **must** be explored. ~~(3-15-02)~~(9-1-16)T

d. All results of the background investigation ~~shall~~ **must** be considered confidential and processed accordingly. ~~(3-15-02)~~(9-1-16)T

e. The results of the background investigation ~~shall ultimately~~ **must** be evaluated by the agency head and/or the appointing authority to determine whether the applicant is suitable **prior to submission of the application to the POST Council for processing.** ~~(3-15-02)~~(9-1-16)T

f. The POST Council will perform a compliance review of the applicant, and may inspect the comprehensive background investigation file as it deems necessary to carry out the provisions of Section 19-5109(1)(g), Idaho Code, to certify peace officers as having completed all requirements established by the Council. (9-1-16)T

g. In the case the compliance review of the applicant reveals that information submitted to the POST Council may be falsified, inaccurate, or incomplete, the POST Division Administrator must inspect the comprehensive background investigation file. The applicant may be accepted upon approval of the POST Division Administrator, and the Division Administrator will have the discretion to refer the application to the POST Council. However, in the case of evident falsification, or of unresolved inaccuracies or omissions, the POST Council must review the application and determine whether the applicant will be certifiable in the State of Idaho. (9-1-16)T

IDAPA 11 - IDAHO STATE POLICE

11.11.02 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR JUVENILE DETENTION OFFICERS

DOCKET NO. 11-1102-1601

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 19-5109(6), 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 October 19, 2016.

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:

Simplifies language and clarifies certification requirements for part-time juvenile detention officers, and eliminated the use of non-POST certified instructors for basic training.

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 the rule is simple in nature and representatives of the affected interests 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 Victor McCraw 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 October 26, 2016.

DATED this 2nd day of September, 2016.

Victor McCraw
POST Division Administrator
Idaho 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. 11-1102-1601
(Only Those Sections With Amendments Are Shown.)

034. THE PART-TIME JUVENILE DETENTION OFFICER CERTIFICATE.

The following requirements are necessary for award of the part-time juvenile detention officer certificate: (4-11-06)

01. Part-Time Juvenile Detention Officer Packet. Any part-time juvenile detention officer *desiring part-time juvenile detention officer certification* must submit a completed POST Part-Time Juvenile Detention Officer Certification Packet prior to attending any part-time juvenile detention officer training. (4-11-06)()

02. Employment. The applicant must have been employed by the agency at least six (6) months (may include part-time juvenile detention officer training time) prior to being awarded the part-time juvenile detention officer certification. Probationary period may be extended by the agency which could delay certification until the probationary period is satisfactorily completed. This six (6) months' time must be continuous with the department the officer is employed with when applying for certification. Probationary period may not extend over one (1) year for certification purposes. (4-11-06)

03. Basic Training. The applicant must have completed the POST Part-Time Juvenile Detention Officer Training and must have passed the POST part-time juvenile detention officer certification examination approved by the Council. The applicant will be allowed two (2) attempts to pass the examination with a minimum score of seventy-five percent (75%). The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. (4-11-06)

a. Any part-time juvenile detention officer *desiring part-time juvenile detention officer certification* must successfully complete the POST Council-approved Part-Time Juvenile Detention Officer Training of no less than forty (40) hours, to include, but not be limited to, items outlined in IDAPA 05.01.02, "Rules of the Idaho Department of Juvenile Corrections, Secure Juvenile Detention Facilities," Subsection 212.05. (4-11-06)()

b. *Portions of the core curriculum may be taught by uncertified instructors. However, Legal and Liability for Juvenile Detention Officers, Verbal Judo, and Appropriate Use of Force must be taught by POST-certified instructors.* (4-11-06)

eb. The officer will be allowed two (2) attempts to pass the examination with a minimum score of seventy-five percent (75%) or better. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. (4-11-06)

dc. The Council will accept written certification from the agency head as proof that a part-time juvenile detention officer has successfully completed the required core curriculum. (4-11-06)

04. Part-Time Juvenile Detention Orientation Training. Successful completion of supervised part-time juvenile detention orientation training in the employing department is required. Evidence of such training must be submitted by applicant's employer to POST Council. (4-11-06)

05. Applications for Certification. All applications for award of the Part-Time Juvenile Detention Officer Certificate must be completed on the prescribed form "Application for Certification" as provided by the POST Council. The Application for Certification form must be submitted by the officer/applicant to the applicant's department head, who will forward the application to the Council. Certificates will be issued to the department head for award to the applicant. (4-11-06)

06. Retaining Certification. A certified part-time juvenile detention officer must work sixty (60) hours annually in a juvenile detention officer capacity to retain certification. Documentation of hours worked must be kept on file at the appointing agency. Any part-time juvenile detention officer working less than sixty (60) hours annually must complete all requirements set forth in Section 033 to be recertified. (4-11-06)

07. Decertification. The Council may decertify any part-time juvenile detention officer in the same manner as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 091.03. (4-11-06)

08. Full-Time Juvenile Detention Officer Status. To be certified as a full-time juvenile detention officer, a certified part-time juvenile detention officer, upon appointment to full-time juvenile detention officer status, must comply with the requirements in Sections 030 and 031. (4-11-06)

IDAPA 11 - IDAHO STATE POLICE

11.11.04 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR CORRECTION OFFICERS AND ADULT PROBATION AND PAROLE OFFICERS

DOCKET NO. 11-1104-1601

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 October 19, 2016.

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:

The Minimum Standards for Employment for Correction Officers and Adult Probation and Parole Officers are now identical to all other disciplines governed by POST, so the duplicative language was removed and the applicant referred to the Minimum Standards for Employment found in IDAPA 11.11.01, Sections 050 through 065.

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 the rule is simple in nature and representatives of the affected interests 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 Victor McCraw 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 October 26, 2016.

DATED this 2nd day of September, 2016.

Victor McCraw
POST Division Administrator
Idaho 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. 11-1104-1601
(Only Those Sections With Amendments Are Shown.)

031. MINIMUM STANDARDS FOR EMPLOYMENT FOR CORRECTION OFFICERS.

Every correction officer must meet the ~~requirements in~~ minimum standards for employment as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Sections 03750 through 04466. (4-2-08)()

032. CITIZENSHIP.

~~The applicant shall be a citizen of the United States.~~ (4-2-08)

~~01. Documentation. Proof of citizenship shall not have been mutilated, altered, or damaged, and shall be in the form of one (1) of the following:~~ (4-2-08)

~~a. Birth Certificate issued by the city, county, or state and filed within one (1) year of birth;~~ (4-2-08)

~~b. Naturalization Certificate;~~ (4-2-08)

~~c. U.S. Passport;~~ (4-2-08)

~~d. Consular Report of Birth Abroad or Certification of Birth; or~~ (4-2-08)

~~e. Certificate of Citizenship.~~ (4-2-08)

033. EDUCATION.

~~The applicant must meet the requirements as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Section 052.~~ (4-11-15)

034. AGE.

~~The applicant shall be a minimum of twenty-one (21) years of age.~~ (4-7-11)

035. CHARACTER.

~~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. The purpose of this requirement is to prohibit persons who engage in dishonest, unprofessional, unethical, or immoral conduct from becoming correction officers, and to protect against acts or conduct which may endanger the safety and welfare of the public.~~ (4-11-06)

036. CRIMINAL RECORD.

~~01. Fingerprints. The applicant must be fingerprinted on the standard FBI Applicant fingerprint card, and a search made by the hiring agency of local, state, and national fingerprint files to disclose any criminal record. The original copies of all records check results must be retained by the hiring agency. The hiring agency must verify the applicant's compliance with the minimum standards for employment outlined in this section to the POST Council upon submission of the appropriate notification of employment form designated by the Council.~~ (3-25-16)

~~02. Conviction. The term "conviction" includes:~~ (4-11-06)

~~a. Any conviction in a federal, tribal, state, county, or municipal court;~~ (4-11-06)

~~b. A voluntary forfeiture of bail, bond, or collateral deposited to secure a defendant's appearance in court as final disposition;~~ (4-11-06)

~~c. The payment of a fine;~~ (4-11-06)

~~d. A plea of guilty, nolo contendere; or~~ (4-11-06)

~~e. A finding of guilt 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 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 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. (4-11-06)~~

~~03. **Misdemeanor Conviction.** A misdemeanor conviction of any federal, state, or local crime may be grounds for rejection of the applicant. (4-11-06)~~

~~a. An applicant must be rejected who has been convicted of any misdemeanor sex crime, 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. The Division Administrator will have the discretion to refer the application to the POST Council. In all other cases, the POST Council must review the application and determine whether the individual will be certifiable as a correction officer in the state of Idaho. (4-11-06)~~

~~b. An applicant with any other misdemeanor conviction will be accepted upon approval of their agency head provided the conviction occurred more than two (2) years prior to application and the applicant's agency head submits written documentation that, with knowledge of the facts and circumstances concerning the offense or violation, he approves the applicant. If the conviction occurred during the two (2) years immediately preceding application, the POST Council must review the application and determine whether the individual will be certifiable as a correction officer in the state of Idaho. (4-11-06)~~

~~04. **Felony Conviction.** An applicant must 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. For the purpose of this rule, a felony conviction will 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 will be granted by the POST Council, except where, since the time of the conviction, the crime for which the defendant was convicted has, by statute, been reduced to a misdemeanor or decriminalized in the jurisdiction where the conviction occurred. In such cases, the POST Council must review the application and determine whether the individual will be certifiable as a correction officer in the state of Idaho. (4-11-06)~~

~~038. **BACKGROUND INVESTIGATION.**~~

~~01. **Requirements.** The applicant must 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 correction 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. (4-11-06)~~

~~02. **Procedures.** (4-11-06)~~

~~a. The applicant must complete and submit to the appointing correction agency a comprehensive application and personal history statement prior to the start of the background investigation. The history statement must contain questions which aid in determining whether the applicant is eligible for certified status as a correction officer. The background investigation must 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 must be recorded and retained by the appointing agency. (4-11-06)~~

~~b. The appointing agency must conduct a personal interview with the applicant to ascertain personal attributes such as personal appearance, demeanor, attitudes that are relevant to the correction mission, judgment, maturity, resourcefulness, and ability to communicate. Searching questions may include, but not be limited to: (4-11-06)~~

- ~~i. Use of intoxicants, narcotics and drugs; (4-11-06)~~
- ~~ii. Physical, mental, and emotional history; (4-11-06)~~
- ~~iii. Family problems; (4-11-06)~~
- ~~iv. Moral outlook and habits; and (4-11-06)~~
- ~~v. Financial transactions. (4-11-06)~~
- ~~e. The appointing agency must conduct a thorough investigation into the character and reputation of the applicant which may include, but not be limited to, the applicant's morality, integrity, reputation, honesty, dependability, qualifications, experience, associations, emotional stability, prejudice, and loyalty. (4-11-06)~~
- ~~d. All results of the background investigation must be considered confidential and processed accordingly. (4-11-06)~~
- ~~e. The results of the background investigation must ultimately be evaluated by the agency head and/or the appointing authority to determine whether the applicant is suitable. (4-11-06)~~
- ~~**039. PHYSICAL—MEDICAL.**~~
- ~~**01. Requirements.** The applicant must meet the requirements as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Section 060. (4-11-15)~~
- ~~**040. MENTAL EXAMINATION.**~~
- ~~**01. Requirement.** The applicant must meet the requirements as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Section 061. (4-11-15)~~
- ~~**041. APTITUDE.**~~
- ~~The applicant must 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 correction function. (4-11-06)~~
- ~~**042. CODE OF CONDUCT/CODE OF ETHICS.**~~
- ~~Each applicant must attest that he has read, understands, and will abide by the Law Enforcement Code of Conduct as found in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 091.04 and the Law Enforcement Code of Ethics as found in Section 064. (4-2-08)~~
- ~~**043. PROBATIONARY PERIOD.**~~
- ~~**01. Probation.** Every officer appointed by an agency below the level of agency head must satisfactorily complete a probationary period of not less than six (6) months. This requirement must also apply to officers who transfer laterally into an agency. (4-11-06)~~
- ~~**02. Supervisor/Mid Manager.** Every officer who is promoted or appointed to a supervisory, middle management, or assistant agency head position must satisfactorily complete a probationary period of not less than six (6) months in that position. (4-11-06)~~
- ~~**03. Extended.** No correction officer who lacks the training qualifications required by the Council will have his temporary or probationary employment extended beyond one (1) year by renewal of appointment or otherwise. (4-11-06)~~
- ~~**044. 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. (4-11-06)~~

~~02. **No Discrimination.** No agency will discriminate as to employment against any persons on the basis of race, creed, color, or sex, pursuant to state or federal law. (4-11-06)~~

~~03. **Equal Opportunity Employer.** Every agency must be an equal opportunity employer. (4-11-06)~~

~~045~~**32.** -- 050. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

052. CORRECTION OFFICER CERTIFICATION.

01. Mandatory Certification. Every correction officer employed after July 1, 2005 must be certified by the Peace Officer Standards and Training Council within one (1) year after first being appointed unless granted additional time to complete certification by the POST Council as set forth in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 030.11. (4-2-08)

02. Voluntary Certification. Correction officers employed prior to July 1, 2005, although specifically excluded by law from meeting the requirements set by the Council, may be certified provided they meet the minimum requirements for certification as prescribed in Sections 022, 031 ~~through 044~~, and 053 of these rules. However, the requirement for successful completion of the POST Basic Correction Academy will be waived if the officer scores a minimum of seventy-five percent (75%) on the POST correction certification examination approved by the Council. The applicant will be allowed two (2) attempts to pass the examination. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts or fails to retake the examination within six (6) months, he must successfully complete the POST Basic Correction Academy to be certified. This option closes on June 30, 2010. (4-2-08)()

053. THE BASIC CERTIFICATE.

In addition to the requirements set forth in Sections 022 and 031 ~~through 044~~ of these rules, the requirements in Section 053 of these rules are necessary for award of the Basic Correction Officer certificate. (4-2-08)()

01. Probation. The applicant must have satisfactorily completed at least a six (6) month probationary period, which may include basic correction academy time. The probationary period may be extended by the appointing agency which could delay certification until the probationary period is satisfactorily completed. This six (6) months' time must be continuous with the agency the officer is appointed to when applying for certification. The probationary period must not extend over one (1) year for certification purposes. (4-11-06)

02. Basic Training. The applicant must have satisfactorily completed: (4-11-06)

a. The POST Basic Correction Academy; or (4-11-06)

b. Be a graduate of a private prison contractor's correction officer training program, the curriculum of which has been certified by the Council as being equivalent to the POST Basic Correction Academy, and must have passed the POST correction certification examination approved by the Council. The applicant will be allowed two (2) attempts to pass the examination. The attempts must be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts or fails to retake the examination within six (6) months, he must successfully complete the POST Basic Correction Academy to be certified. (4-11-06)

03. Correction Field Training Manual. The applicant must have satisfactorily completed forty (40) hours of POST-approved correction field training. (4-11-06)

04. Private Prison Contractor's Correction Officer Training Program. A graduate from an Idaho POST-certified private prison contractor's correction officer training program must also submit a completed POST Correction Officer Certification Packet. (4-11-06)