



Minnesota Board of Peace Officer Standards and Training

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Advisory Committee on Post Board Rules Overhaul

MEETING AGENDA

1600 University Avenue, Suite 200
Saint Paul, Minnesota

July 15, 2021

9:30 a.m. -12:30 p.m.

This meeting will be held online. Meeting materials and a link to observe the meeting are also posted on the board's website prior to the meeting.

1. Welcome/Housekeeping/Roll Call
2. Agenda Approval
3. Minutes Approval – June 10, 2021
4. Standards of Conduct
5. Wrap-up
6. Adjournment

Next meetings:

August 12, 9:30 – 12:30

September 9, 1 -4 pm

October 7, 1-4 pm

November 18, 1-4 pm

December 9, 1-4 pm

**MINNESOTA BOARD OF
PEACE OFFICER STANDARDS AND TRAINING**

**Advisory Committee on POST Board Rules Overhaul Meeting
POST Board Office
Electronic Meeting via Microsoft Teams
June 10, 2021**

Members Present

David Bicking
Bill Bolt
Elliot Butay
Gwen Degroff-Gunter
Sara Edel
Craig Enevoldsen
Mark Fahning
Michelle Gross
Elisabeth Lee
Bryan Litsey
Pat Nelson
Theresa Paulson

Raj Sethuraju
Steven Soyka
Tracy Stille
Jean Cemensky
Jack Serier
Aaron Suomala-Fokerds

Members Absent

Sherisse Truesdale-Moore
Vincent Do

Staff Present

Erik Misselt
Rebecca Gaspard
Abby Brown
Angie Rohow

Others Present*

*Invitation to listen to the live meeting was listed on the website.

Ms. Gaspard began the meeting at 9:31 am. Roll call was taken by Ms. Brown. Of note, Ms. Degroff-Gunter, Mr. Butay and Ms. Gross arrived after roll call.

Approval of the Agenda: There were no objections to the agenda as disseminated, so the agenda remained the same.

Approval of the May 12, 2021 Meeting Minutes: There were no objections to the minutes as disseminated, and the minutes will be posted on the website.

AV7 Advisory Committee Rules Draft: The Psychological Pre-Employment Screening will be researched further by Mr. Butay and the measurable results will be brought back to the full group on a later date. Discussion ensued regarding the Minimum Selection Standards as written currently in the draft. A basic consensus was to move forward with this section. License Renewal discussion included the possibility of requiring a Psychological Re-Evaluation/Screening as a part to the Renewal process. There was discussion on renewal requirements, inactive licenses, and activation of expired licenses.

The meeting was adjourned at 12:19 pm.

Standards of Conduct

6700.1500 STANDARDS OF CONDUCT FOR LICENSEES.

Subpart 1. Statutory authority. This part is adopted pursuant to Minnesota Statutes, section [626.843](#), subdivision 1, clause (e); section [626.845](#), subdivision 1, clause (j); and chapter 214.

Subp. 2. Scope. Nothing in parts [6700.0100](#) to [6700.1800](#) shall preclude or prevent any agency, political subdivision, civil service commission, or other appointing authority from publishing and enforcing rules, policies, or procedures which are more comprehensive than those minimum statewide standards set forth hereinafter. The responsibility for enforcing any rules, policies, or procedures which are more comprehensive than the following minimum standards of conduct remains with the promulgating agency, political subdivision, commission, or appointing authority. §

Subp. 3. Purpose. The board believes that in order for the public to have confidence in the integrity and ability of law enforcement, it is paramount that peace officers demonstrate that they are capable of self-regulation. The board further believes that internal discipline is properly a function of the appointing authority and its political subdivision. These standards of conduct relate to licensure only and violations thereof do not enlarge on a peace officer's civil or criminal liability in any way.

Subp. 4. Standards of Conduct. *moved from 6700.1600*

Violation of any of the following standards of conduct by a licensee constitutes grounds for disciplinary action:

A. engaging in conduct prohibited by, or listed as, grounds for disciplinary action in this chapter, Minnesota Statutes, chapter 214, or sections [626.84](#) to [626.90](#), or engaging in conduct which violates any statute enforced by the board;

B. obtaining a license from the board by fraud or cheating, or attempting to subvert the examination process;

C. being convicted of a felony or gross misdemeanor in this state, or in any other state or federal jurisdiction of an offense that would constitute a felony or gross misdemeanor if committed in Minnesota including a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered, an admission of guilt, or no contest;

D. having been the subject of revocation, suspension, or surrender of a peace officer license or certificate in resolution of a complaint or other adverse action relating to licensing or certification in another jurisdiction;

E. failing to report the revocation, suspension, or surrender of a license or certificate in resolution of a complaint, or other disciplinary or adverse action taken against a licensee in this or another jurisdiction, or having been refused a license or certificate by any other jurisdiction;

F. being convicted of a state or federal narcotics or controlled substance law irrespective of any proceedings under Minnesota Statutes, section [152.18](#), or any similar law of another state or federal law;

G. being adjudicated by a court of competent jurisdiction, within or without the state, as incapacitated, lacking the capacity to serve as a peace officer, chemically dependent, mentally ill and dangerous to the public, or as having a psychopathic personality, or required to register as a predatory offender under Minnesota Statutes, section [243.166](#) or [243.167](#);

H. violating any order issued by the board;

I. practicing outside the scope of Minnesota Statutes, section [626.863](#);

J. making an intentional false statement or misrepresentation to the board, or falsifying documentation;

K. engaging in sexual penetration or contact without consent, as defined in Minnesota Statutes, section [609.341](#), or engaging in conduct that violates Minnesota Statutes, section [617.23](#). Sexual contact does not include contact that is part of standard police procedure such as search and arrest;

L. being convicted, including a finding or verdict of guilt, whether or not the adjudication of guilt is withheld or not entered, an admission of guilt, or a no contest plea of a violation of Minnesota Statutes, sections [169A.27](#); [518B.01](#), subdivision 14; [609.224](#); [609.2242](#); [609.23](#); [609.231](#); [609.342](#); [609.343](#); [609.344](#); [609.345](#); [609.3451](#); [609.43](#); [609.465](#); [609.466](#); [609.52](#); [609.53](#); [609.748](#), subdivision 6; or [626.557](#);

M. failing to cooperate with an investigation of the board as required by part [6700.1610](#), subpart 4;

N. engaging in sexual harassment, as defined by Minnesota Statutes, section [363A.03](#), subdivision 43;

O. using deadly force when not authorized by Minnesota Statutes, section [609.066](#); or

P. being convicted of solicitation, inducement, or promotion of prostitution in violation of Minnesota Statutes, section [609.322](#), or any conviction under Minnesota Statutes, section [609.324](#), or being convicted of similar offenses in another state or federal jurisdiction.

Statutory Authority: *MS s* [214.10](#); [214.12](#); [626.84](#) to [626.863](#); [626.843](#); [626.863](#)

6700.xxxx Subpart 1. Mandatory Denial or Revocation of License. The board must revoke a license when the Board finds that a licensed peace officer has:

- a) Has been convicted of any offense that would bar licensure under the minimum selection standards identified in part xxxx;
- b) has been discharged for cause from employment as a peace officer. For the purposes of this rule, "for cause" means intentional conduct performed under the color of office to:
 - 1. Obtain a false confession;
 - 2. Make false arrests;
 - 3. Create or use falsified evidence, including false testimony, or to destroy evidence to create a false impression;
 - 4. Compel a person to abstain from doing, or to do, any act that the person has a legal right to do or abstain from doing;
 - 5. Deprive, or attempt to deprive, another person or persons of their legal rights;
 - 6. Gain advantage for a law enforcement agency or for personal gain; or
 - 7. Discriminate against a person based on the peace officer's perception of that person's race, color, religion, sex, sexual orientation, gender identity, national origin, disability, age, status with regard to public assistance, or any protected class as defined by state or federal law.

Subp. 2 Discretionary Denial or Revocation of a Peace officer's license.

A. For the purposes of this rule, conduct subject to discretionary review includes, but is not limited to:

- 1) A criminal disposition when the criminal disposition is not a conviction constituting mandatory grounds as defined in subp. X of this rule;
- 2) Conduct related to an arrest, a criminal citation to appear or its equivalent, or a criminal disposition;

- 3) Conduct related to circumstances concurrent to a separation of employment from a peace officer or other licensed position such as, but not limited to, investigation, settlement agreement or allegations of misconduct;
- 4) Conduct that violates the standards of conduct defined in 6700.1500;
- 5) Falsification of any information on any documents submitted to the Board; or
- 6) Conduct identified through receipt or discovery of information that would lead an objectively reasonable person to conclude that the peace officer violated Board established employment, training, or licensure standards for peace officers.

B. The Board may impose discipline, deny, or revoke a license based upon a finding that the individual engaged in conduct that includes any or all of the following elements:

- 1) Dishonesty or conduct including untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification or reckless disregard for the truth;
- 2) Misuse of Authority including the use or attempted use of one's position or authority as a peace officer to obtain a benefit, avoid a detriment or harm another; or
- 3) Misconduct including violations of criminal laws, conduct that threatens or harms persons, property or the efficient operations of any agency, or discriminatory conduct;

(c) Review of discretionary criminal dispositions applies to criminal dispositions that occurred on or after January 1, 202x. The Board will not open a case to review criminal dispositions that occurred prior to January 1, 2001.

Oregon

(1) Standards of conduct are critical to upholding the public's trust in the law enforcement profession, protecting the public and ensuring that the conduct of a peace officer does not reflect adversely on the public safety profession. A violation of these standards is substantially related to the duties performed by a certified peace officer.

(2) Mandatory Denial or Revocation of a peace officer's license. The Board must deny or revoke a license based upon a finding that:

a) The peace officer has a conviction for any offense designated under the law of the jurisdiction where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one year may be imposed;

(b) The peace officer has a conviction in any jurisdiction for any offense involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic or dangerous drug, except for criminal dispositions involving use or possession of marijuana which are reviewed as discretionary cases under section (3) of this rule;

(c) The peace officer has a conviction in any jurisdiction for any offense involving domestic violence. For the purposes of this rule, domestic violence includes abuse of a child, and the term "domestic violence" has the meaning given by xxx, the term "abuse" has the meaning given xxx, and the term "child" means a child who is under 18 years of age and is a natural child, adopted child, stepchild, a child under the guardianship of, or a child who regularly resides or formerly resided in the same household as the peace officer;

(d) The peace officer has a conviction in any jurisdiction for a bias or hate crime;

(e) The peace officer is a sex offender pursuant to xx); or

(f) The peace officer has been discharged for cause from employment as a peace officer. For the purposes of this rule, “for cause” means intentional conduct performed under the color of office to:

- (A) Obtain false confessions;
- (B) Make false arrests;
- (C) Create or use falsified evidence, including false testimony, or to destroy evidence to create a false impression;
- (D) Compel a person to abstain from doing, or to do, any act that the person has a legal right to do or abstain from doing;
- (E) Deprive, or attempt to deprive, another person or persons of their legal rights;
- (F) Gain advantage for a law enforcement agency or for personal gain; or
- (G) Discriminate against a person based on the peace officer’s perception of that person’s race, color, religion, sex, sexual orientation, gender identity, national origin, disability, age, status with regard to public assistance, or any protected class as defined by state or federal law.

(3) Discretionary Denial or Revocation of a Peace officer’s license.

(a) The Board may deny or revoke a peace officer’s license based upon a finding that the peace officer engaged in conduct that includes any or all of the following elements:

- (A) Dishonesty. Dishonesty is intentional conduct that includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification or reckless disregard for the truth;
- (B) Misuse of Authority. Misuse of Authority is intentional conduct that includes the use or attempted use of one’s position or authority as a peace officer to obtain a benefit, avoid a detriment or harm another; or
- (C) Misconduct.

(i) Misconduct includes conduct that violates criminal laws, conduct that threatens or harms persons, property or the efficient operations of any agency, or discriminatory conduct;

(ii) For the purposes of this rule, discriminatory conduct includes a pattern of conduct or a single egregious act that evidences knowing and intentional discrimination based on the perception of a person’s race, color, religion, sex, sexual orientation, gender identity, national origin, disability, age or any protected class as defined by state or federal law, and would lead an objectively reasonable person to conclude that the peace officer cannot perform the duties of office in a fair and impartial manner.

(b) For the purposes of this rule, conduct subject to discretionary review includes, but is not limited to:

- (A) A criminal disposition when the criminal disposition is not a conviction constituting mandatory grounds as defined in section (2) of this rule;
- (B) Conduct related to an arrest, a criminal citation to appear or its equivalent, or a criminal disposition;
- (C) Conduct related to circumstances concurrent to a separation of employment from a certifiable position such as, but not limited to, investigation, settlement agreement or allegations of misconduct;
- (D) Conduct that violates the standards of student conduct defined in [OAR 259-012-0010 \(Standards of Student Conduct\)](#);
- (E) Falsification of any information on any documents submitted to the Board or the Department; or
- (F) Conduct identified through receipt or discovery of information that would lead an objectively reasonable person to conclude that the peace officer violated Board established employment, training, or certification standards for peace officers.

(c) Review of discretionary criminal dispositions applies to criminal dispositions that occurred on or after January 1, 2001. The Department will not open a case to review criminal dispositions that occurred prior to January 1, 2001.

(4) The Department will not open a case on a criminal disposition or conduct that was previously reviewed by the Department, a Policy Committee or the Board and determined not to violate standards for peace officer certification or resulted in no action to deny or revoke certification using the administrative rules in effect at the time of the review.

(a) Nothing in this rule precludes the Department from opening a case upon discovery of additional mandatory or discretionary grounds for denial or revocation.

(b) Nothing in this rule precludes the Board from considering previous criminal dispositions or conduct as an aggravating circumstance in a separate discretionary case review.

(5) The moral fitness standards defined in administrative rule in effect on the date the Board determined that the applicant or peace officer was unfit for certification will continue to apply until the Final Order has been issued and all appeal rights have been exhausted regardless of whether the moral fitness standards have been subsequently amended or repealed.

(6) Emergency Suspension. The Board must issue an Emergency Suspension Order immediately suspending a peace officer's license when the Board or the Board's Executive Complaint Investigation Committee finds that there is a serious danger to public health and safety.

(7) Any Board action to deny, revoke or emergency suspend a peace officer's license will be administered in accordance with xxx or list administrative procedures act.

IADLEST Grounds for Discipline:

6.0.9 Grounds for Discipline Grounds for commission discipline of certified officers should be specified in state law and should include at least the following: conviction of a felony or serious misdemeanor (including a plea of guilty or nolo contendere regardless of IADLEST Model Minimum Standards Page 20 whether there is a suspended imposition or execution of sentence; the commission may also consider convictions that have been annulled); regardless of whether there is conviction, acts of dishonesty, such as perjury and filing false reports; acts showing an intentional or reckless disregard for the rights of others; unlawful sale, use or possession of a controlled dangerous substance; and violation of the code of conduct as established by the commission. The commission shall have the authority to revoke any certificate that has been obtained through misrepresentation or fraud or that was issued as the result of an administrative error on the part of the commission or the employing agency. When permitted by statute or regulation, a certificate may be immediately suspended where the officer is under indictment for, is charged with, or has been convicted of the commission of any felony or where the officer's certificate has been suspended or revoked by another state.