

Draft 2

Advisory Committee Review

12-9-21

Note: The text of the current rule on standards of conduct is on page 6

6700.1500 STANDARDS OF CONDUCT FOR LICENSEES PEACE OFFICERS.

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 (i); and chapter 214.

Subp. 2. Scope Law Enforcement Agency. Nothing in parts ~~6700.0100~~ to ~~6700.1800~~ in this chapter shall preclude or prevent any agency, political subdivision, civil service commission, or other appointing authority law enforcement agency (LEA) from publishing and enforcing adopting rules, policies, or procedures requirements which that are more comprehensive than those minimum statewide exceed the standards set forth hereinafter for a licensed peace officer identified in **part xxx**. When a LEA has adopted more stringent standards, the LEA and not the Board is responsible for enforcing any standard the portion of the standard that exceeds the minimum standard identified in this part. The responsibility for enforcing any rules, policies, or procedures which are more comprehensive than the following minimum standards of conduct remains with the law enforcement agency.

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.

NOTE: Current Standards of Conduct are listed in 6700.1600 (proposed to be deleted),

A licensed peace officer is subject to discipline up to and including license revocation under part 6700.0710 when the board finds that the officer has violated one or more of the standards of conduct. It is a violation of standards of conduct to:

- A. Be convicted or receive a stay of adjudication in any jurisdiction for any offense:
To commit in any jurisdiction:
 - (1) an offense that would bar licensure under the minimum selection standards identified in part 6700.0700 Subp. 1 E;
 - (2) theft, prostitution, or controlled substance offenses that are not automatic bars to licensure under minimum selection standards in part 6700.0700 Subp. 1 E;
- B. Falsify or knowingly provide false information to the board, a law enforcement agency, or a court; or other conduct that may lead to an impeachment disclosure or Brady Giglio impairment;
- C. Engage in on or off duty discriminatory conduct based on a perception of a person's race, color, creed, religion, national origin, disability, sex, sexual orientation, gender identity, public assistance or any other protected class as defined in local ordinances, Minnesota statutes, or federal law;

- D. Undermine or jeopardize public trust in law enforcement by supporting, advocating, or participating in any form, unless sanctioned as part of official duties, in the activities of a white supremacist or other hate or extremist group that promotes:
- 1) hatred or unwillingness to recognize civil rights of others based on a person's perceived race, color, creed, religion, national origin, disability, sex, sexual orientation, gender identity, public assistance status or any protected class as defined in local ordinances, Minnesota Statutes, or federal law;
 - 2) the use of threats, force, violence, or criminal activity in efforts to deprive individuals of their civil rights under the Minnesota or United States Constitution; or to achieve goals that are political, religious, discriminatory, or ideological in nature;
 - 3) threats or violence against local, state or U.S. Government or seditious activities

For the purposes of this clause, "supporting, advocating or participating" means:

- a) dissemination of extremist material; cyber or social media posts, chats, forums, and other forms of promotion of the hate or extremist group's ideology;
 - b) display or use of insignia, colors, tattoos, hand signs, slogans, or codes;
 - c) financial contributions;
 - d) physical or cyber presence in the group's events; and
 - e) other conduct that could reasonably be considered support, advocacy or participation.
- E. Fail to cooperate with an investigation of the board as required by part 6700.1610, subpart 4;
- F. Fail to comply with a requirement for licensees:
- 1) to report crimes of bias or alleged crimes of bias as required under Minnesota Statutes, section 626.5531;
 - 2) to intercede and report use of force violations as required under 626.8474;
 - 3) to comply with the requirements of maintaining a peace officer license in part 6700.x; or
 - 4) to comply with any other requirement in this chapter or Minnesota Statutes for peace officers.
- G. Engage in sexual harassment, as defined by Minnesota Statutes, section 363A.03, subd. 43;
- H. Misuse a peace officer's authority by:
- (1) 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
 - (2) committing misconduct under MN Statutes sections 609.43;
 - (3) exceeding the officer's authority in executing a search warrant or executing it with unnecessary severity under Minnesota Statutes 626.22;
 - (4) unnecessary, excessive, or unnecessary and excessive use of force against a person, or the illegal use of deadly force*-10/7/21advisory committee: consider consolidating 3&4 to use of force which is in violation of MN Statutes 609.06. which permits "reasonable" UOF, doesn't require the minimum use of force necessary to accomplish LEO's goal*
- I. be 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;
- J. Violate board standards in a required mandatory policy identified in MN Statutes, chapter 626 or this chapter. *only if conflicts with professional conduct policy and officer misconduct are resolved, otherwise may require board to address employment issues that do not rise to the level of licensure fitness – may incorporate by reference so specificity is added as ALJs prefer more specific standards*

- K. Engage in conduct prohibited by or listed as grounds for disciplinary action in this chapter, Minnesota Statutes, chapter 214 or 626, or engaging in conduct which violates any statute enforced by the board;
- L. Cheat or attempt to subvert the examination process;
- M. Fail to meet the ethical and professional standards required of a peace officer; disrupt, diminish, or otherwise jeopardize public trust or confidence in the law enforcement profession; or demonstrate an inability or unwillingness to enforce the Constitution and laws of the United States and the state of Minnesota.

6700.0100 Definitions

Subp. X. Discriminatory Conduct. Discriminatory conduct means 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, creed, religion, national origin, disability, sex, sexual orientation, gender identity, or public assistance or any other protected class as defined in local ordinances, Minnesota statutes, or federal law; and would lead an objectively reasonable person to conclude that the applicant may not perform the duties of a peace officer in a fair and impartial manner. Used in 6700.x650 Background Investigations, 6700.0700 Minimum Selection Standards, and 6700.1500 Standards of Conduct.

~~Subp. X. Extremist Group.~~ ~~Extremist group means a group or organization that advocates any of the following: delete if definition text remains in standards of conduct 6700.1500~~

- ~~A. Harmful actions, hatred or an unwillingness to recognize civil rights of others, based on a person's perceived race, color, creed, religion, national origin, disability, sex, sexual orientation, gender identity, status with regard to public assistance, age, or any other protected class as defined by local ordinance, the Minnesota Human Rights Act in MN Statutes, section 363a, local, or federal law;~~
- ~~B. Creating, supporting, or engaging in discrimination based on those protected classes;~~
- ~~C. Promotion of the use of force, violence, or unlawful means to

 - ~~• deprive individuals of their rights under the Minnesota or United States Constitution;~~
 - ~~• unlawful violence or force to achieve goals that are political, religious, discriminatory, or ideological in nature;~~
 - ~~• a duty to engage in violence against the government in support of an extremist cause;~~
 - ~~• Activities promoting or teaching the overthrow of the local, state or U.S. Government by force or violence, or seeking to alter the form of government by unconstitutional means (sedition).~~~~

Other States Tackling LEO Involvement with Hate/Extremist Groups

Examples of language used by other states to address LEO participation in extremist/hate group activities:

Oregon: *Oregon amended reasons for discipline:*

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB2936/Enrolled>

SECTION 2.

- (1) Racism has no place in public safety.
- (2) Law enforcement officers hold a unique position in our community and must demonstrate principles of equity, transparency, honesty and trust with all members of society.
- (3) Membership or participation in hate groups, racial supremacist organizations or militant groups erodes public trust in law enforcement officers and community safety.

(4) Participation in racist organizations and displays of symbols of racism or racial supremacy are at odds with the position of trust and authority law enforcement officers occupy in our community

Washington: *Washington uses extremist group with no definition as reason for disciplining officers*
[\(Washington Rule 43.101.105\)](#)

(h) Engaged in conduct including, but not limited to, verbal statements, writings, online posts, recordings, and gestures, involving prejudice or discrimination against a person on the basis of race, religion, creed, color, national origin, immigration status, disability, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status;

(i) Has affiliation with one or more extremist organizations;

California: *California bill AB655 definitions:*

(b) **"Hate group"** means an organization that, based upon its official statements or statements, principles, the statements of its leaders, or its or activities, supports, advocates for, threatens, or practices the denial of constitutional rights of, the genocide of, or violence towards, any group of persons based upon race, ethnicity, nationality, religion, gender, gender identity, sexual orientation, or disability.

(c) **"Membership in a hate group"** means being, or holding oneself out as, an official member of a group, and can be indicated by actions or evidence including, without limitation, submitting an application for membership in a group, being listed on an official group membership roster, or publicly wearing or otherwise displaying any tattoo, uniform, insignia, flag, or logo that is reserved for members of the group.

(d) **"Participation in hate group activities"** means active and direct involvement in, or coordination or facilitation of, acts of violence by hate group members.

Tennessee:

(8) Have a good moral character as determined by a thorough investigation conducted by the employing agency. For purposes of this section, a person is not deemed to have good moral character if the person is a member of a hate group or terrorist organization, as determined by the employing agency. It is not the intent of this subdivision (8) to interfere with the exercise of rights protected by the Constitution of the United States. As used in this subdivision (8), "hate group" means an organization whose primary purpose is to promote animosity, hostility, and malice against a person or persons, or against the property of a person or persons, because of race, religion, disability, ethnicity, or national origin; and

Membership in a hate group or terrorist organization, as determined by the employing agency, is sufficient grounds for termination of a law enforcement officer for lack of good moral character. It is not the intent of this section to interfere with the exercise of rights protected by the Constitution of the United States. As used in this section, "**hate group**" means an organization whose primary purpose is to promote animosity, hostility, and malice against a person or persons, or against the property of a person or persons, because of race, religion, disability, ethnicity, or national origin.

New Jersey

"Extremist group" means a group that utilizes the unlawful use or threat of force in furtherance of an ideological agenda derived from bias against a person or group or anti-government or anti-

authority sentiment, including opposition to perceived economic, social, or racial hierarchies, or perceived government overreach, negligence, or illegitimacy.

"Hate group" means an organization that supports, advocates for, threatens, or practices genocide or violence toward any group of persons based on their race, ethnicity, nationality, religion, gender, gender identity, sexual orientation, or disability.

"Public expression of hate" means an explicit expression made in writing or speech by a law enforcement officer while on or off duty in a public forum, including, but not limited to, social media in a public or private discussion forum to advocate for, support, or threaten the genocide or violence toward any group of persons based on their race, ethnicity, nationality, religion, gender, gender identity, sexual orientation, or disability.

Washington, D.C.:

(4) "**Hate group**" means an organization or social group whose goals, activities, and advocacy are primarily or substantially based on a shared hatred, hostility, or violence towards people of one or more other different races, ethnicities, religions, nationalities, genders, and/or sexual identities

(7) "**White supremacy**" means a hate group whose shared hatred, hostility, or violence towards people of one or more other different races, ethnicities, religions, nationalities, genders, and/or sexual identities is based on the belief that white people are innately superior to other races and may include one of the following tenants: 1) white people should have control over people of other races; 2) white people should live by themselves in a whites-only society; 3) white people have their own "culture" that is superior to other cultures; or 4) white people are genetically superior to other people

FLORIDA

Rule: 11B-27.0011 Knowingly, willfully, and actively participating in any activity committed with the intent to benefit, promote, or further the interests of a "hate group", as defined in Section 874.03(6), F.S.

Statute: Section 874.03(6), F.S. "Hate group" means an organization whose primary purpose is to promote animosity, hostility, and malice against a person or persons or against the property of a person or persons because of race, religion, disability, sexual orientation, ethnicity, or national origin

MPLS PD: from dept. manual

There may be times when personal use of Social Media Sites that are not City Supported Social Media Sites (even if it is off-duty or using their own equipment) may affect or impact the workplace and become the basis for coaching or discipline. Examples of situations where this might occur include, but are not limited to:

- Cyber-bullying, stalking or harassment.
- Participating in offensive, hateful conduct. When conduct on personal Social Media could be perceived as a conflict with the City's mission, values, or degrades public trust in the City or its department.

IACP Model Standards of Conduct

Officers shall not knowingly join or participate in any organization that advocates, incites, or supports criminal acts or criminal conspiracies or that promotes hatred or discrimination toward racial, religious, ethnic, or other groups or classes of individuals protected by law.

6700.1600 VIOLATION OF STANDARDS OF CONDUCT. *Entire section will be deleted and replaced with language under 6700.1500 (on first page of this doc), but left intact here for easier reading*

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;
- 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.