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37-062. Training to Take Place within One Year of Hire.

A. No operator employed or appointed on or after the effective date of these regulations by any agency in this State is authorized to receive, process, transmit and/or dispatch emergency and non-emergency calls for police, fire, emergency medical and other public safety services via communication devices unless he or she has been certified as qualified by the Council, except that any agency in this State may appoint or employ as an operator, a person who is not certified if, within one year after the date of employment or appointment, the person secures certification from the Council. Exceptions to the one-year rule may be granted by the Director in these cases:

1. military leave or injury occurring during the first year which would preclude the receiving of training within the usual period of time; or

2. in the event of the timely filing of application for training, which application, under circumstances of time and physical limitations, cannot be honored by the training academy within the prescribed period; or

3. upon presentation of documentary evidence that the candidate has successfully completed equivalent training in one of the other states which by law regulate and supervise the quality of operator training and which require a minimum basic or recruit course of duration and content at least equivalent to that provided in these regulations or by standards set by the Council; or

4. if it is determined by documentary evidence that the training will result in undue hardship to the requesting agency, the requesting agency must propose an alternate training schedule for approval.

B. Notwithstanding another provision of law, in the case of a candidate for certification who begins one or more periods of state or federal military service within one year after his date of employment or appointment, the period of time within which he must obtain the certification required to become an operator is automatically extended for an additional period equal to the aggregate period of time the candidate performed active duty or active duty for training as a member of the National Guard, the State Guard, or a reserve component of the Armed Forces of the United States, plus one hundred and eighty days. The Director must take all necessary and proper action to ensure that a candidate for certification as an operator who performs military service within one year of his employment or appointment is not prejudiced in obtaining certification as a result of having performed state or federal military service.

HISTORY: Added by State Register Volume 38, Issue No. 6, Doc. No. 4369, eff June 27, 2014.

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37-063. Requirement of Good Character.

A. Background Investigations.

Every agency who requests operator's certification shall conduct a background investigation in accordance with guidelines issued by the Council.

B. Certification to the Council.

Every agency who requests operator's certification shall certify to the Council that, in the opinion of the agency, the candidate is of good character and has not engaged in misconduct as defined in R.37-073. However, a finding of good character is subject to final approval by the Council.

C. Availability of Background Information.

Information obtained in any background investigation made in response to these regulations, shall be available, upon request, to the Academy and/or Council for its review and to any future prospective agency to assist them in a determination of an applicant's good character for operator's or law enforcement certification.

HISTORY: Added by State Register Volume 38, Issue No. 6, Doc. No. 4370, eff June 27, 2014.

S.C. CODE REGS. 37-063, SC ADC 37-063

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37-068. Application for Issuance or Re-issuance of Certification.

A. All candidates for issuance or re-issuance of operator's certification shall be submitted to the Academy within fifteen business days after hire on a form prescribed by the Council.

B. All candidates for issuance or re-issuance of operator certification must not have any active notification(s) from the South Carolina Department of Social Services notifying the Academy and/or the Council to revoke certification pursuant to S.C. Code §63-17-1060.

HISTORY: Added by State Register Volume 38, Issue No. 6, Doc. No. 4374, eff June 27, 2014.

S.C. CODE REGS. 37-068, SC ADC 37-068

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38-001. Authority of Director.

A. The Director is authorized to issue orders directing that public law enforcement agencies and law enforcement officers certified in this state comply with Chapter 23, Title 23 Code of Laws of South Carolina, 1976, as amended, and the regulations promulgated pursuant thereto.

B. All orders so issued shall be reviewed and ratified by the Council prior to their issuance.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

S.C. CODE REGS. 38-001, SC ADC 38-001

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38-002. Application for Re-issuance of Certification.

All applications for re-issuance of law enforcement certification shall be submitted to the Academy within fifteen days after hiring on a form prescribed by the Council.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-003. Requirement of Good Character.

A. Background Investigations.

Every agency who requests certification of any class of law enforcement officer shall conduct a background investigation in accordance with guidelines issued by the Council.

B. Certification to the Council.

Every agency who requests certification of any class of law enforcement officer shall certify to the Council that, in the opinion of the employing agency, the candidate is of good character and has not engaged in misconduct as defined in R.38-004.

C. Availability of Background Information.

Information obtained in any background investigation made in response to these regulations, shall be available, upon request, to the Academy and/or Council for its review and to any future prospective law enforcement employers to assist them in a determination of an applicant's good character for law enforcement certification.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

S.C. CODE REGS. 38-003, SC ADC 38-003

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38-004. Denial of Certification for Misconduct.

A. The Council may deny certification based on evidence satisfactory to the Council that the candidate has engaged in misconduct. For purposes of this section, misconduct means:

1. Conviction, plea of guilty, plea of no contest or admission of guilt (regardless of withheld adjudication) to a felony, a crime punishable by a sentence of one year or more (regardless of the sentence actually imposed, if any), or a crime of moral turpitude in this or any other jurisdiction;

2. Unlawful use of a controlled substance;

3. The repeated use of excessive force in dealing with the public and/or prisoners;

4. Dangerous and/or unsafe practices involving firearms, weapons, and/or vehicles which indicate either a willful or wanton disregard for the safety of persons or property;

5. Physical or psychological abuses of members of the public and/or prisoners;

6. Misrepresentation of employment-related information;

7. Dishonesty with respect to his/her employer;

8. Untruthfulness with respect to his/her employer.

B. In considering whether to deny certification based on misconduct, the Council may consider the seriousness, the remoteness in time and any mitigating circumstances surrounding the act or omission constituting or alleged to constitute misconduct.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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ATTORNEY GENERAL'S OPINIONS

The intentional overdose of a prescription medication for the stated purpose of committing suicide is an "unlawful use of a controlled substance." S.C. Op.Atty.Gen. (Dec. 6, 2010) 2010 WL 5578961.

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38-005. Firearms Qualification Requirement.

Each law enforcement agency shall maintain proof of completion of a firearms qualification program and keep on file, available for inspection, proof that the firearms qualification program was administered by an Academy accredited firearms instructor.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

S.C. CODE REGS. 38-005, SC ADC 38-005

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38-006. Certification.

Certification will occur upon the successful completion of the prescribed training course as set out in 38-007. No candidate may be certified in more than one class at any one time and certification shall be that required for the most recent employing agency.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-007. Training Requirements for Basic Law Enforcement Certification.

A. Class 1 Certifications.

1. Candidates for basic certification as law enforcement officers with full powers shall successfully complete a training program as approved by the Council and will be certified as Class 1-LE.

2. Candidates for basic certification as both law enforcement officers with full powers and as local detention facility officers (jailers) shall successfully complete the requirements to be certified as Class 1-LE and Class 2-LCO and will be certified as Class 1-LECO.

B. Class 2 Certifications.

1. Candidates for basic certification as local detention facility officers (jailers) shall successfully complete a training program as approved by the Council and will be certified as Class 2-LCO.

2. Candidates for basic certification as correctional officers with the Department of Corrections shall successfully complete a training program as approved by the Council and will be certified as Class 2-SCO.

3. Candidates for basic certification as juvenile correction officers with the Department of Juvenile Justice shall successfully complete a training program as approved by the Council and will be certified as Class 2-JCO.

C. Class 3 Certifications.

Candidates for basic certification as law enforcement officers with limited powers of arrest or special duties shall successfully complete a training program as approved by the Council and will be certified as Class 3-SLE.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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ATTORNEY GENERAL'S OPINIONS

Simultaneous service as a criminal Justice Academy instructor certified as a Class 3 law enforcement officer and part-time employment performing the duties of a deputy coroner would be dual office holding. S.C. Op.Atty.Gen. (October 2, 2012) 2012 WL 4836949.

S.C. CODE REGS. 38-007, SC ADC 38-007

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38-008. Equivalent Training.

A. Other States.

All candidates who have received law enforcement training in other states shall submit satisfactory proof of successful completion and a verified copy of the courses taken. Training will be reviewed on a case by case basis and each candidate will be given credit for any training deemed equivalent to training offered by the Academy. All candidates must satisfy legal and firearms training as well as remedy any deficiencies in prior training.

B. Federal Training.

All candidates who have received law enforcement training with U.S. federal agencies shall submit satisfactory proof of successful completion and a verified copy of the courses taken. Training will be reviewed on a case by case basis and each candidate will be given credit for any training deemed to be equivalent to training offered by the Academy. All candidates must satisfy legal and firearms training as well as remedy any deficiencies in prior training.

C. Military Training.

All candidates who have received law enforcement training as U.S. military police shall submit satisfactory proof of successful completion and a verified copy of the courses taken. Training will be reviewed on a case by case basis and each candidate will be given credit for any training deemed to be equivalent to training offered by the Academy. All candidates must satisfy legal and firearms training as well as remedy any deficiencies in prior training.

D. Prior Training with Break in Service.

1. All certification lapses when an individual terminates active law enforcement duty.

2. A candidate with a break in service of less than one year will be re-certified by the Academy upon receiving a request by his department and upon providing proof of no disabilities at law.

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3. A candidate with a break in service of one year but less than three years will be re-certified upon submission of the application with appropriate documents as set out in Section 23-23-60 and R.38-002.

4. A candidate with a break in service of three years or more must complete all the requirements of Section 23-23-60 and R.38-002, R.38-005 and R.38-006.

5. When a candidate becomes subject to new training requirements, as set forth in R.38-007, as a result of a transfer from one agency to another with different training requirements, the candidate must successfully complete the training requirements for the class of certification the candidate will occupy with the new agency.

6. A candidate who has been continuously certified in this state, in any class, and who transfers to a class in which he/she has been previously certified, will be certified in the prior class upon successful completion of the firearms qualification requirement.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-009. Separation from Law Enforcement Employment.

A. All law enforcement agencies and other employers of law enforcement officers are required to notify the Academy when an officer leaves the employment of the agency/employer, regardless of the reason for the separation within 15 days of separation.

B. Such notification shall take place on a form as prescribed by the Council, contain the facts and circumstances leading to the separation, and be for the Academy and Council's confidential use and subsequent safekeeping.

C. In the event that such notification contains allegations of misconduct, a copy of such notice shall be sent to the law enforcement officer and the officer shall be informed of the provisions of Section 23-23-90 and allowed to file a response for the Academy and Council's use and safekeeping.

D. A willful failure by law enforcement agencies and other employers of law enforcement officers to supply the facts and circumstances of separation shall subject the violator to a civil penalty as provided by law.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

NOTES OF DECISIONS

In general 1

1. In general

Town's disclosure of misconduct form reporting African-American police officer's use of excessive force against an arrestee to South Carolina criminal justice academy, pursuant to state regulations, did not constitute public disclosure, as required to establish a due process liberty interest claim arising of town's dissemination of an false and defamatory impression about the officer; failure to comply with the disclosure rule would have subjected the town to civil penalties. Bell v. Town of Port Royal, South Carolina, 2008, 586 F.Supp.2d 498. Constitutional Law 4173(2); Municipal Corporations 185(7)

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38-010. Reserve Police.

A. Definition.

In addition to the definition required by law, a "reserve" officer is not paid by the agency for which the officer performs law enforcement duties.

B. Documentation and Reporting.

1. Each agency having a reserve law enforcement officer program shall keep on file, available for inspection, all documentation required for regularly salaried law enforcement officers and as set out in R.38-002.

2. Each agency shall certify to the Academy, using a form prescribed by the Council, that such documentation is on file in the agency.

C. In-Service Requirement.

Each agency having a reserve law enforcement officer program shall keep on file, and make available for inspection, documentation that each reserve officer has completed the in-service requirement as required by law.

D. Transfers.

1. A reserve officer who desires to transfer to regular law enforcement status shall complete all the requirements as set forth by law and under R.38-008 as appropriate for the class of certification which the reserve officer will occupy.

2. A certified law enforcement officer who transfers to reserve status for a period of time not to exceed three years, shall be deemed to have no break in service as defined in R.38-008. Should the period of time exceed three years, the officer shall be deemed to have a break in service and shall complete all the requirements as set forth by law and under R.38-007, as appropriate for the class of certification which the reserve officer will occupy.

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E. Operational Procedures.

Any law enforcement agency wishing to establish a Reserve Officer program must meet minimum department sponsored certification criteria as required by the Academy Standards Section.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-011. Traffic Radar Operator.

A. Qualification.

Only Class 1 certified law enforcement officers and appointed reserve officers may be accredited as traffic radar operators.

B. Accreditation.

To be accredited as a traffic radar operator, a law enforcement officer must complete a course of training taught by a certified law enforcement traffic radar instructor.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-012. Application for Re-certification.

An application for re-certification must be submitted on a form approved by the Council and is deemed complete when the form, with the necessary information as set out in R.38-013, is received by the Academy.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-013. Continuing Law Enforcement Education Requirements for Re-certification.

A. Eligibility.

No law enforcement officer is eligible for re-certification unless, in addition to the requirements of R.38-012, the officer has successfully completed, at a minimum, the number of approved continuing law enforcement education hours as appropriate for the officer's certification class, as specified in R.38-007. Such education hours shall be designated as Continuing Law Enforcement Education (CLEE) hours in the context of these regulations.

B. Class 1 Re-Certification Requirements:

1. Officers possessing a current Class 1-LE Certification shall be required to obtain forty CLEE hours in a three year period. The forty CLEE hours shall consist of at least one legal update course and one domestic violence course, presented or approved by the Academy, each year of the three year period. The remaining required CLEE hours in the three year period may come from any source approved by the Academy.

2. Officers possessing a current Class 1-LECO certification shall be required to complete the number of hours of in-service instruction per year as specified by the Jail Standards Committee and approved by the Academy. Each officer shall also be required to complete at least one legal update course and one domestic violence course, presented or approved by the Academy, each year of the three year period.

C. Class 2 Re-certification Requirements:

1. Officers possessing a current Class 2-LCO Certification shall be required to complete the number of hours of in-service instruction per year as specified by the Jail Standards Committee and approved by the Academy.

2. Officers possessing a current Class 2-SCO Certification shall be required to complete a Academy approved agency in-service program of at least forty hours every three years. At least one course each year shall be a legal update course.

3. Officers possessing a current Class 2-JCO Certification shall be required to complete a Academy ap-

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proved agency in-service program of at least forty hours every three years. At least one course each year shall be a legal update course.

D. Class 3 Re-certification Requirements:

Officers possessing a current Class 3 Certification shall be required to complete at least one legal update course, presented by the Academy, each year of the three year period.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-014. Approval of Continuing Law Enforcement Education Hours for Re-certification Requirements.

A. The Academy shall approve courses for CLEE hours toward officer re-certification upon application made on a form approved by the Academy and containing the following information concerning the courses:

1. The name of the course sponsor and its address;

2. The course agenda showing the actual number of hours of instruction;

3. A listing of course faculty with educational and professional credentials for each faculty member;

4. A copy of the course written materials, including a lesson plan and any test instruments which will be used;

5. Any supporting material which the course offeror wishes to submit for the Academy's consideration.

B. The Academy shall maintain a listing of courses which are approved for CLEE hours towards officer recertification and shall indicate after each course the number of CLEE hours for which the course is approved. The listing shall be updated on an annual basis.

C. Courses, once approved, shall be added to the listing maintained by the Academy. In order to receive continuing approval for course offerings, the offeror of each course must provide, on each successive second anniversary of the course's being placed on the listing, an updated application form and supporting documentation as stated in paragraph (A) of this section. Failure to comply with this requirement shall result in the course being removed from the listing and having its approval withdrawn.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-015. Extension of Certification Renewal Date.

A certified law enforcement officer who is unable to complete the requirements of R.38-013 within the three year period specified will be granted an extension to his/her renewal date in the following cases:

A. Military Leave.

Any officer called to active military duty for a period of more than thirty consecutive days shall be granted an extension to his/her renewal date, as specified in Section 23-23-60(C) of the South Carolina Code of Laws, for the duration of the active duty, plus ninety days.

B. Medical Disability or Administrative Leave.

1. Any officer who is on disability leave, medical leave, administrative leave as a result of an assault by an inmate, patient or client, or other administrative leave granted by the employing agency, with or without pay, for a period of more than thirty consecutive days, shall be granted an extension to his/her renewal date, as specified in Section 23-23-60(C) of the South Carolina Code of Laws, for the duration of the leave, provided such extension does not exceed one year.

2. Any officer on medical leave, disability leave, administrative leave as a result of an assault by an inmate, patient or client, or other administrative leave granted by the employing agency, for a period of one year or more shall be treated under R.38-008(C)(3) or (4).

C. Eligibility and Application for Extension of Renewal Date.

1. Only officers whose law enforcement responsibilities have been suspended will be eligible for an extension of renewal date.

2. Application by the employing agency for an extension of renewal date shall be made within forty-five days of the beginning of military leave, medical leave, disability leave, administrative leave as a result of an assault by an inmate, patient or client, or other administrative leave granted by the employing agency, on a form prescribed by the Council.

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3. Notification by the employing agency of a return to active law enforcement duty shall be made within fifteen days of return to active law enforcement duty on a form prescribed by the Council.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-016. Withdrawal of Certification of Law Enforcement Officers.

A. A law enforcement officer, certified pursuant to the provisions of R.38-007 and R.38-008, shall have his or her certification as a law enforcement officer withdrawn by the Council upon the occurrence of any one or more of the following events:

1. The officer is found to have falsified any application for certification and training based upon which the officer was admitted for training.

2. The officer is found to be ineligible for service as a law enforcement officer because of his or her failure to meet prerequisite qualifications for training and certification, as set by law, even though such ineligibility is not discovered until after the officer's initial certification.

3. The officer is convicted of a criminal offense under the law of any jurisdiction which would, by the laws of this State, disqualify the officer from obtainment of certification as provided for in R.38-007 and R.38-008.

4. Evidence satisfactory to the Council that the officer has engaged in misconduct. For purposes of this section, misconduct means:

a. Conviction, plea of guilty, plea of no contest or admission of guilt (regardless of withheld adjudication) to a felony, or a crime punishable by a sentence of more than one year (regardless of the sentence actually imposed, if any), or a crime of moral turpitude in this or any other jurisdiction;

b. Unlawful use of a controlled substance;

c. The repeated use of excessive force in dealing with the public and/or prisoners;

d. Dangerous and/or unsafe practices involving firearms, weapons, and/or vehicles which indicate either a willful or wanton disregard for the safety of persons or property;

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e. Physical or psychological abuse of members of the public and/or prisoners;

f. Misrepresentation of employment-related information;

g. Dishonesty with respect to his/her employer;

h. Untruthfulness with respect to his/her employer;

i. Violations of criminal law resulting from administrative inquiries.

Provided however that in considering whether to withdraw certification based on misconduct, the Council may consider the seriousness, frequency and any mitigating circumstances surrounding the act or omission constituting or alleged to constitute misconduct.

B. The officer's certification expires due to the officer's failure to meet re-certification requirements as set out in R.38-013.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

ATTORNEY GENERAL'S OPINIONS

The intentional overdose of a prescription medication for the stated purpose of committing suicide is an "unlawful use of a controlled substance." S.C. Op.Atty.Gen. (Dec. 6, 2010) 2010 WL 5578961.

S.C. CODE REGS. 38-016, SC ADC 38-016

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38-017. Reporting of Events Requiring Withdrawal of Certification.

A. It shall be the responsibility of the sheriff or the chief executive officer of every law enforcement agency or department within the State to report to the Academy the occurrence of any event or series of events, set forth in R.38-016 which requires the withdrawal of certification of a law enforcement officer who is currently or was last employed by his or her agency.

B. The report shall be made within fifteen days of the final agency or department action resulting from the internal investigation conducted by the agency or department, and shall be on a form prescribed by the Council.

C. A willful failure to report information shall subject the violator to a civil penalty as provided by the Council.

D. Only events which are determined as founded by the department or agency shall be reported as provided herein above.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

S.C. CODE REGS. 38-017, SC ADC 38-017

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38-018. Investigation of Events Requiring Withdrawal of Certification; Notification to Officer.

A. Upon receipt of a report pursuant to R.38-017(A), the Council shall initiate an investigation into reported events which may require withdrawal of the law enforcement officer's certification.

B. The Director and/or Council may suspend the certification of any law enforcement officer pending the outcome of an investigation initiated pursuant to paragraph (A) above.

C. A law enforcement officer who is the subject of an investigation shall be notified of its initiation on a form prescribed by the Council, sent by certified mail to the current address on file at the Academy, return receipt requested, as soon as practicable after the investigation is initiated.

D. Duplicate of such notice shall be sent, in the same manner prescribed in paragraph (C) above, to the current sheriff or chief executive officer of the employing agency or department of the law enforcement officer.

E. The Council may direct that the investigation, on its behalf, be conducted. The investigation shall be sent to the Council for its confidential use and review.

F. Where the Council's investigation indicates that withdrawal of the law enforcement officer's certification is not warranted, the Council shall notify the law enforcement officer and the sheriff or chief executive officer of the employing law enforcement agency of its finding, in accordance with the notice provisions of paragraph (C) and (D) above.

G. Where the Council's investigation indicates that withdrawal of the law enforcement officer's certification is warranted, the Council shall proceed in accordance with R.38-019.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

S.C. CODE REGS. 38-018, SC ADC 38-018

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38-019. Notification of Withdrawal of Certification.

A. Prior to the withdrawal of a law enforcement officer's certification pursuant to R.38-016, the Council shall notify the officer whose certification is to be withdrawn on a form prescribed by the Council sent by registered mail, to the current address on file at the Academy, return receipt requested, to the officer.

B. Such notice shall be provided to the officer ten days in advance of the effective date of withdrawal of the certification.

C. Duplicate of such notice shall be sent in the same manner as in paragraph (A) above, to the current sheriff or the chief executive officer of the law enforcement agency or department of the law enforcement officer.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

S.C. CODE REGS. 38-019, SC ADC 38-019

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38-020. Confidentiality of Notification.

All notifications to law enforcement officers and their respective employing law enforcement agencies pursuant to R.38-017, R.38-018, and R.38-019 shall be handled in a confidential and sensitive manner.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-021. Law Enforcement Emergency Vehicle Training Requirement.

A. Every agency which employs one or more law enforcement officers who uses emergency vehicles shall make provision for the training set out in R.38-022 as appropriate for each such officer's law enforcement duty requirements prior to any such officer's certification as qualified by the Council.

B. Officers holding valid certification on the effective date of these regulations must successfully complete the training set out in R.38-022, as is appropriate for such officer's law enforcement duty requirements within 180 days of such date.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

S.C. CODE REGS. 38-021, SC ADC 38-021

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38-022. Law Enforcement Emergency Vehicle Training Requirement.

A. Non-Emergency Response Training.

1. Every law enforcement officer who drives or operates an emergency vehicle shall successfully complete a course of instruction as approved by the Academy relating to non-emergency operation of the law enforcement emergency vehicle.

2. Every law enforcement agency required to make provisions for the training prescribed in R.38-022(A)(1) and shall promulgate written policy and procedure concerning non-emergency vehicle response, consistent with the provisions of the course of instruction as approved by the Academy, which shall be included as part of the training provided to its officers.

B. Emergency Response Training.

1. Every Class 1 law enforcement officer and any other law enforcement officer who drives or operates a law enforcement emergency vehicle in response to an emergency, as defined in these regulations, shall successfully complete a course of instruction as approved by the Academy relating to emergency response operation of the law enforcement emergency vehicle.

2. Every agency required to make provision for the training prescribed in R.38-022(B)(1) shall promulgate written policy and procedure concerning emergency response with the law enforcement emergency vehicle, consistent with the provisions of the course of instruction as approved by the Academy, which shall be included as part of the training program provided to its officers.

C. Pursuit Training.

1. Every Class 1 law enforcement officer and any other law enforcement officer who drives or operates a law enforcement emergency vehicle in pursuit of an actual or suspected violator of the law, as defined in these regulations, shall successfully complete a course of instruction as approved by the Academy relating to pursuit operation of the law enforcement emergency vehicle.

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2. Every agency required to make provision for the training prescribed in R.38-022(C)(1) shall promulgate written policy and procedure concerning pursuit operation of the law enforcement emergency vehicle, consistent with the provisions of the course of instruction as approved by the Academy which shall be included as a part of the training program provided to its officers.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-023. Notification of Training Compliance.

A. Every agency required to conduct training pursuant to R.38-022 shall provide proof of completion of the required training programs, including appropriate instruction in the written policies and procedures of the agency concerning operation of the law enforcement emergency vehicle as required by R.38-022.

B. A law enforcement officer who transfers from one agency to another shall be required to successfully complete the training program appropriate for the agency to which transfer has occurred, in accordance with R.38-022. Provided, however, that an officer who has successfully completed a training program pursuant to R.38-022 within a period of one year of the date of transfer to another agency, where the successfully completed program is appropriate for the officer's law enforcement duty with the agency to which transferred, shall not be required to complete another training program upon such a transfer, but rather the employing agency to which transferred shall provide appropriate instruction to the transferred officer in the written policies and procedures of the agency concerning operation of the law enforcement emergency vehicle as required by R.38-022. This training shall be reported to the Academy as required in R.38-023(A).

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-024. Continuing Training Requirement.

A. The training required by R.38-022 shall be conducted on a continuing basis no less frequently than annually. Every agency shall report, on the form prescribed by the Academy, the provision of appropriate training on or before the expiration of the current certification. Nothing in these regulations shall be construed to prohibit such training on a basis more frequently than annually.

B. Officers successfully completing appropriate required emergency vehicle training shall be provided CLEE hours in accordance with R.38-013 appropriate for the number of hours of instruction received.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-025. Approval of Training Programs.

A. All agencies required to conduct training programs pursuant to R.38-022 shall, prior to initiation of the required training, submit training materials as required by the Academy for review and approval.

B. CLEE hours shall be awarded only for materials properly submitted and approved by the Academy.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-026. Equivalent Law Enforcement Emergency Vehicle Training.

Training provided by other states, the federal government or private training providers, will be evaluated in a fashion consistent with the provisions of R.38-008. In each instance where an agency or officer submits a request for credit for equivalent training, the employing agency must provide verification that appropriate instruction in the written policies and procedures of the agency has occurred, in accordance with the directives of R.38-023(B) regarding transferred officers.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-027. Effect of Failure to Comply.

A. Any agency which willfully fails to comply with the directives of R.38-021 through 38-026, shall be subject to a civil penalty as provided by law.

B. Any law enforcement officer found not to be in compliance with the directives of R.38-021 through 38-026, shall have his or her certification as a law enforcement officer withdrawn in accordance with R.38-026(A)(2) and his or her authority to exercise law enforcement powers shall cease, and the officer's certification shall be deemed to have lapsed.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-028. Definitions.

A. For purposes of R. 38-001 - 38-028, the following definitions shall apply:

1. "Agency" means local government or public safety agency employing law enforcement officers.

2. "Director" means the Director of the South Carolina Criminal Justice Academy.

3. "Academy" means the South Carolina Criminal Justice Academy.

4. "Council" means the Law Enforcement Training Council.

B. For purposes of R.38-021 and 38-022, the following definitions shall apply:

1. "Emergency" means a sudden or unexpected occurrence involving an imminent threat to human life or immediate potential for extreme property damage under conditions requiring immediate response to curtail imminent harm to human life.

With respect to the suspected commission of a criminal offense and law enforcement response to such offense, the classification of the crime as felony or misdemeanor shall not be the sole determinative factor of whether an emergency is present; but rather all known factors, in accordance with the first paragraph above, will be weighed in a determination of whether an emergency exists.

2. "Non-Emergency" means a situation involving conditions routinely encountered in line of law enforcement duty which does not pose an imminent threat to human life or immediate potential for extreme property damage which would require immediate response to curtail harm to human life.

3. "Pursuit" means a event involving a law enforcement officer attempting to apprehend a person in a motor vehicle while that person is trying to avoid capture by willfully failing to yield to the officer's signal to stop. It also includes the closing of the distance between a law enforcement vehicle and the violator's vehicle under circumstances where the violator is not yet aware of the law enforcement action.

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4. "Emergency Response" means the driving of a law enforcement emergency vehicle by a law enforcement officer in response to an emergency, as defined herein, where the response is conducted in accordance with state law and department policy.

5. "Non-Emergency Response" means the driving of a law enforcement emergency vehicle by a law enforcement officer in response to a non-emergency, as defined herein. This response involves operation of the law enforcement emergency vehicle in all modes other than emergency response or pursuit mode.

6. "Law Enforcement Emergency Vehicle" means a motor vehicle, as defined by the laws of this state, whether marked or unmarked, used by a law enforcement agency in the conduct of law enforcement operations, in accordance with state law and department policy.

SUBARTICLE 3 E-911 SYSTEM

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff May 23, 2003; State Register Volume 38, Issue No. 3, eff March 28, 2014.

S.C. CODE REGS. 38-028, SC ADC 38-028

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Subarticle 3. E-911 System
38-060. Definitions.

A. "Operator" means a telecommunications operator or dispatcher employed in an E-911 system.

B. "Agency" means local government or public safety agency employing operators.

C. "Director" means the Director of the South Carolina Criminal Justice Academy.

D. "Academy" means the South Carolina Criminal Justice Academy.

E. "Council" means the Law Enforcement Training Council.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-061. Minimum Requirements for E-911 Operator Enrollment in Training.

A. All agencies having operators as candidates for training and certification shall submit to the Academy, the following:

1. an application under oath in a format prescribed by the Council;

2. evidence satisfactory to the Council that the candidate possesses a high school diploma or equivalent recognized and accepted by the South Carolina Department of Education;

3. evidence satisfactory to the Council that the candidate's present age is not less than eighteen years;

4. evidence satisfactory to the Council that the candidate has not been convicted of any criminal offense that carries a possible sentence of more than one year.

B. Nothing in this regulation shall be construed to preclude any agency from establishing qualifications or standards for hiring that exceed these minimum standards.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-062. Training Requirements for Certification.

A. Candidates for certification as operators shall successfully complete a prescribed course of training as approved by the Council and will be certified as Class 4-TCO.

B. Candidates employed as operators prior to June 27, 1997 may be certified without completing the training referenced in paragraph (A) above if the candidate has:

1. two years continuous employment as an emergency services dispatcher and no break in service of longer than six months; or

2. one year continuous employment as an emergency services dispatcher, no break in service of more than six months, and prior training accredited by the Academy, and the candidate successfully passes a comprehensive test as approved by the Director and administered by the Academy. No retest will be offered.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 38, Issue No. 3, eff March 28, 2014.

S.C. CODE REGS. 38-062, SC ADC 38-062

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38-063. Break in Service after Certification.

A. All certification lapses upon separation from employment.

B. Candidates with prior certification and a break in service of less than one year will be recertified upon a request by the employing agency, provided the agency produces evidence satisfactory to the Council that the candidate has not been convicted of any criminal offense that carries a possible sentence of more than one year.

C. Candidates with prior certification and a break in service of more than one year must meet the requirements of 38-061 and 38-062(A).

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-064. Separation from Employment.

Agencies shall notify the Academy of the separation from employment of any certified operator. If the separation is a result of the conviction for a criminal offense carrying a possible sentence of more than one year, such conviction shall be reported to the Academy. All reports shall take place on a form approved by the Director.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 38, Issue No. 3, eff March 28, 2014.

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38-065. Cost of Training.

The cost of training shall be established by the Academy. Agencies shall forward an authorized purchase order for this amount with each application for training.

HISTORY: Added by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997. Amended by State Register Volume 38, Issue No. 3, eff March 28, 2014.

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