

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
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1. Desired date of publication in Maryland Register: 8/21/2015

2. COMAR Codification

Title Subtitle Chapter Regulation

12 04 01 01, .05, .08, .09, .11, .15, .16

3. Name of Promulgating Authority

Department of Public Safety and Correctional Services

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Title 12
DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONAL SERVICES

Subtitle 04 POLICE TRAINING COMMISSION

12.04.01 General Regulations

Authority: Correctional Services Article, §2-109; Public Safety Article, §3-208(a);
Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of Public Safety and Correctional Services proposes to in cooperation with the Police Training Commission, Regulations .01, .05, .08, .09, .11, .15 and .16 under COMAR 12.04.01 — General Regulations.

This action was considered by the Police Training Commission at a public meeting on July 8, 2015.

Statement of Purpose

The purpose of this action is to 12.04.01.01 — Replaces “derogatory information” with “supplemental information” and appropriately re-codifies the definitions contained in the regulation.

12.04.01.05, 08, and .11 — Appropriately, replaces the use of “derogatory information” with “Supplemental Information” in the regulations.

12.04.01.09 — Includes amendment to comply with entrance-level training requirements in accordance with amendments to Public Safety Article, §3-207, Annotated Code of Maryland.

12.04.01.15 and .16 — Amends language to clarify what levels of substances in a urine sample indicate a positive screen and confirmation requirements in the drug screening procedures for police officer applicants; and make a clarifying technical change to the language related to a law enforcement agency’s verification of information related to a police officer applicant’s use of drugs.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Thomas C. Smith, Director, Policy and Process Review, Police and Correctional Training Commissions, 6852 4th Street Sykesville, MD 21784, or call 410 875 3605, or email to tcsmith@dpscs.state.md.us, or fax to 410 8753584. Comments will be accepted through September 26, 2015. A public hearing has not been scheduled.

Open Meeting

Final action on the proposal will be considered by the Police Training Commission during a public meeting to be held on To be Announced, at to Be Announced.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 2016
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
Yes
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
General
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
This action amends language to reflect procedures already in practice.
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
These regulations affect State and local government only.
- G. Small Business Worksheet:

Attached Document:

Title 12 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

Subtitle 04 POLICE TRAINING COMMISSION

Chapter 01 General Regulations

Authority: Correctional Services Article, §2-109; Public Safety Article, §3-208(a); Annotated Code of Maryland

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (7) (text unchanged)

[(8) "Derogatory information" means negative information developed during a background investigation or reported to a law enforcement agency that may adversely affect an individual's ability to perform the duties of a police officer.]

[(9) — (19)] (8) — (18) (text unchanged)

(19) "*Supplemental information*" means information in the possession of a law enforcement agency, or that becomes known to the Commission, concerning an individual who is a police officer or an applicant for certification as a police officer that indicates the individual:

(a) *May not have the ability to perform the duties of a police officer;*

(b) *May not meet a qualification for the police officer selection standards under this chapter;*

(c) *Has exhibited behavior reflecting a lack of honesty or integrity; or*

(d) *Has separated from employment:*

(i) *Involuntarily; or*

(ii) *Prior to issues being resolved that are related to the individual's eligibility to continue the employment.*

(20) — (21) (text unchanged)

.05 Background Investigation and Criminal History.

A. Background Investigation.

(1) — (5) (text unchanged)

(6) Out-of-State Applicants.

(a) (text unchanged)

(b) If an applicant has been employed as a police officer for the federal government or in another state, the agency head shall:

(i) (text unchanged)

(ii) Forward with the AFC any [derogatory] *supplemental* information obtained from the previous out-of-State law enforcement agency or any other source.

(7) — (9) (text unchanged)

(10) [Derogatory] *Supplemental* Information.

(a) If [derogatory] *Supplemental* information is developed, the agency head shall submit details with the AFC to the Commission.

(b) The Commission may refuse to certify the applicant based upon [derogatory] *written verified supplemental* information.

B. Criminal Record Checks and Fingerprints.

(1) — (4) (text unchanged)

(5) The Commission may refuse to certify an applicant based on [derogatory] *supplemental* information developed as part of the criminal record check or any other source.

.08 Selection Standards for Recertification as a Police Officer.

A. — C. (text unchanged)

D. The hiring agency head shall:

(1) (text unchanged)

(2) Forward the AFC to the Commission with copies of [criminal records and] any [derogatory] *supplemental* information discovered during the investigation or from any other source [to the Commission with the AFC].

E. (text unchanged)

.09 Minimum Standards for Entrance-Level Training for Police Officers.

A. — B. (text unchanged)

C. Commission-Required Subject Areas.

(1) For the Commission to approve an entrance-level training program for police officers, the entrance-level training program shall include the following subject areas:

(a) — (i) (text unchanged)

(j) Protective strategies and tactics *including training in the proper level and use of force;*

(k) — (m) (text unchanged)

(n) Health and wellness;[and]

(o) Terrorism and weapons of mass destruction;

(p) *Sensitivity to cultural and gender diversity; and*

(q) *Individuals with physical, intellectual, developmental, and psychiatric disabilities.*

(2) (text unchanged)

D. — I. (text unchanged)

.11 Voluntary Attendance at an Entrance-Level Training Program.

- A. (text unchanged)
- B. Selection Standards — Voluntary Entrance-Level Training.
 - (1) (text unchanged)
 - (2) The training director accepting an individual volunteering to attend police officer entrance-level training shall:
 - (a) Ensure a criminal record check is performed on the individual through, at a minimum, the National Crime Information Center (NCIC) to determine if there is [derogatory] *supplemental* information that conflicts with the requirements of the academy or Commission;
 - (b) — (c) (text unchanged)
- C. — E. (text unchanged)

.15 Drug Screening Procedures.

- A. — B. (text unchanged)
- C. Urine Sample Analysis.
 - (1) (text unchanged)
 - (2) A law enforcement agency conducting drug screening and analyzing a urine sample shall:
 - (a) *Conduct urine sample analysis according to provisions under Health-General Article, §17-214, Annotated Code of Maryland;*
 - [(a)] (b) Ensure that the urine sample is screened by an enzyme immunoassay, radioimmunoassay testing method, or another equally scientifically rigorous screening method; *and*
 - [(b)] (c) [Ensure] *At a minimum, ensure* that the screening method includes[, at a minimum,] testing for the presence of the [following] controlled dangerous substances, narcotic drugs, or marijuana, or classes of controlled dangerous substances, or their metabolites[, at the minimum levels measured in nanograms per milliliter specified for each controlled dangerous substance, narcotic drug, or marijuana:] *listed in §C(3) of this regulation.*
 - (3) *A positive screen is indicated if the test result meets or exceeds an amount at the following levels measured in nanograms per milliliter specified for each controlled dangerous substance, narcotic drug, or marijuana, or classes of controlled dangerous substances, or their metabolites as follows:*
 - [(i)] — [vii] (a) —(f) (text unchanged)
 - [(vii)] (g) Benzodiazepines—300[.];
 - (4) *Confirmation of a Positive Screen Required.*
 - [(c)] (a) [Ensure a] A positive [screening] *screen* of a urine sample [under §C(2)(b) of this regulation is confirmed] for each substance identified *under §C(3) of this regulation shall be confirmed* using gas chromatography, mass spectrometry, or other equally scientifically rigorous testing method[; and
 - (d) Conduct urine sample analysis according to provisions under Health-General Article, §17-214, Annotated Code of Maryland].
 - [(3)] The Commission considers a urine sample analyzed according to §C(2) of this regulation that shows the presence of a controlled dangerous substance, narcotic drug, or marijuana in an amount that meets or exceeds the nanograms per milliliter specified to be a positive screen and requires confirmation according to §C(2)(c) of this regulation.]
 - [(4)] (b) [Unless confirmed according to §C(2)(c) of this regulation, the Commission considers a] A urine sample [screened] *resulting in a positive screen* using the method under [§C(2)(a)] *§C(2)(b) of this regulation* alone is inconclusive, *unless the positive screen result is confirmed according to §C(4)(a) of this regulation.*

.16 Prior Substance Abuse by Applicants for Certification.

- A. — E. (text unchanged)
- F. Indication of Use of a Controlled Dangerous Substance, Narcotic Drug, or Marijuana.
 - (1) (text unchanged)
 - (2) The law enforcement agency shall verify the veracity of the applicant's statements, responses to questions, [or] *and* any other information provided by the applicant related to the use of a controlled dangerous substance, narcotic drug, or marijuana using a truth verification device.
 - (3) — (5) (text unchanged)
- G. — H. (text unchanged)

Stephen T. Moyer
Secretary
Department of Public Safety and Correctional Services