

PEACE OFFICER STANDARDS & TRAINING COMMISSION

December 14, 2021

8:30 AM

**Peace Officer Standards and Training Commission
Remote Participation**

PUBLIC MEETING MINUTES

Documents Distributed in Advance of Meeting:

- Revised Draft Background Attestation Form for Law Enforcement Officer Applicants
- Revised Draft Questionnaire for Law Enforcement Officer Applicants
- Revised Draft Phase I Regulations
- Memorandum from Executive Director Enrique Zuniga to Commission Regarding Law Enforcement Officer Certification Standards
- Law Enforcement Officer Certification Standards
- Motion to Approve Certification Standards and Certain Related Documents and Motion to Authorize Subsequent Refinement of Certification Standards and Certain Related Documents

In Attendance:

- Chair Margaret R. Hinkle
- Commissioner Hanya Bluestone
- Commissioner Lawrence Calderone
- Commissioner Clementina M. Chéry
- Commissioner Larry Ellison
- Commissioner Marsha V. Kazarosian
- Commissioner Charlene D. Luma
- Commissioner Kimberly P. West
- Commissioner Michael Wynn

1. Call to Order

- The Chair recognized a quorum.
- The Commission will review the agenda out of order and discuss law enforcement officer certification standards first.

2. Discussion of Certification Standards: Chapter 6E section 4(f)(j) – Commissioner West

- Commissioner West summarized the logistical problems of having to certify law enforcement candidates already in police academies.
- To address concerns raised at the last Commission meeting, the background questionnaire has been revised to include an instruction allowing a respondent to state that they have a good faith belief that they cannot answer a question completely and accurately without waiving a privilege or protection recognized by law; to allow designees to conduct background interviews, where appropriate; and to remove requests for social media passwords. Other revisions are limited to clarifying language.

- Commissioner Kazarosian raised a concern that the questionnaire does not cover accusations of sexual harassment in the workplace.
- Commissioner Wynn raised a concern that small police departments do not have access to CopLink. Commissioner West clarified that use or non-use of CopLink will not make or break a background check; a successful background check does not require checking every single box on the background attestation form.
- Commission Ellison raised a question about the police chief's liability when they are a citizen.
- Commissioner Calderone suggested the background questionnaire be revised to ask about convictions for operating under the influence, instead of merely requests to perform a field sobriety test. Commissioner West responded that positive answers to questions are not automatic disqualifications; instead, they are meant to prompt discussion. Commissioner Kazarosian asked if a Conviction Without a Finding qualifies as a conviction. Commissioner Calderone raised further concerns that asking about anything less than a conviction would slow down the certification process, and potentially prevent successful certification.
- Commissioner Calderone also raised various concerns about the propriety of questions regarding accusations of domestic violence, child support, and violations of restraining orders.
- Commissioner Calderone raised concerns that a question regarding being asked to leave school was overly broad. Commissioner Luma agreed the question as written was too broad and could be misinterpreted, and asked the Commission to consider that certain communities have been disproportionately impacted in the realm of academics. Commissioner West agreed that the question could be narrowed to be asked about leaving attendance at school.
- Commissioner Calderone also raised concerns about the breadth of the social media question. Commissioner West suggested adding a time limitation to the question. Various Commissioners engaged in a discussion about what the time limitation should be, and agreed that consistency was important. Commissioner Bluestone reminded the Commission that its goal is to move towards unbiased policing and agreed with Commissioner Luma that the time limitation should go back to the age of 18.
- Based on concerns raised by Executive Director Zuniga and Mr. Povich about the need to certify law enforcement officers by the 22nd and the volume of discussion, the Chair suggested approving all other certification documents, except for the background questionnaire.
- The Commission discussed the standards for certifying law enforcement officers. Commissioner Bluestone raised a concern about the need to standardize the psychological evaluation and in particular, who is qualified to provide a psychological evaluation.
 - The Chair asked for a motion to approve the standards, subject to two modifications. Commissioner Kazarosian moved to approve the standards, subject to two modifications. Commissioner Wynn seconded the motion. The Commission unanimously approved the standards subject to two modifications.

- The Commission reviewed the background investigation attestation form. There was no substantive discussion.
 - The Chair asked for a motion to approve the background attestation form. Commissioner Wynn moved to approve the background attestation form. Commissioner Calderone seconded the motion. The Commission unanimously voted to approve the background investigation attestation form.
 - Commissioner Wynn asked if the investigation questionnaire could be approved as to concept, and delegated to a working group. General Counsel Ravitz advised that if the delegation was defined, it would be permissible. Commissioner Calderone expressed his disagreement with delegating the questionnaire and suggested the questionnaire be tabled until the next Commission meeting. Commissioner Wynn raised concerns about the timing of the graduating police academy class and the need to certify those officers. Various Commissioners again raised concerns about specific questions in the interview questionnaire.
 - The Chair suggested someone make a motion to approve Mr. Povich's suggestion that, for the December 22 graduating class, an interview by a chief is sufficient, and the chief would need to decide on the content of the interview, and the Commission would strive to finalize a questionnaire for use with the January graduating class.
 - Commissioner Calderone so moved. Commissioner West seconded the motion. The Commission unanimously voted in favor of the motion.
 - The Chair also suggested a motion authorizing Commissioner West and General Counsel Ravitz to make non-material and non-substantive corrections to the standards for certifying law enforcement officers and the background investigation attestation form.
 - Commissioner Wynn moved to authorize Commissioner West and General Counsel Ravitz to make non-material and non-substantive corrections to the standards for certifying law enforcement officers and the background investigation attestation form. Commissioner Ellison seconded the motion. The Commission unanimously approved authorizing Commissioner West and General Counsel Ravitz to make non-material and non-substantive corrections to the standards for certifying law enforcement officers and the background investigation attestation form.
3. Draft Phase 1 Regulations: Review of Complaints by an Agency, Preliminary Inquiries, Suspensions and Disciplinary Hearings – Lon Povich, Mina Makarious and Annie Lee, Anderson & Kreiger
- Mr. Povich explained edits made to the definition of what is a “minor” complaint and what types of complaints do not need to be forwarded to the Commission.
 - Various Commissioners asked questions about the drafted language and Mr. Povich clarified.
 - Mr. Makarious explained that to address concerns about the single commissioner selection process, he inserted language requiring the selection to be pursuant to Commission policy. Mr. Makarious also explained various changes to the timing of revocation, suspension, and disciplinary hearings.

- Commissioner Calderone asked when the Commission could review a draft policy for selecting single commissioners. Mr. Makarios explained that such a policy could be developed while the hearing regulations are still in the promulgation process.
 - Ms. Lee explained additions made to the definition section.
 - Commissioner Calderone raised a concern about the breadth of “altercations.” Ms. Lee agreed and clarified that the definition may be redrafted.
 - Mr. Povich asked the Commissioners to provide their feedback on the draft Phase I regulations prior to December 25.
4. Executive Director Report
- The Commission recently welcomed Detective Lieutenant Gina Joyce and is in the process of hiring for seven more positions. Another two positions related to technology and communications/stakeholder engagement are being developed.
 - Executive Director Zuniga is developing the Commission’s staffing and fiscal plan with Commissioner Ellison. Executive Director Zuniga plans to present the Commission’s FY2023 plan at the Commission’s January meeting.
 - The Commission is narrowing in on a proposal for office space that would allow the Commission to have furnished office space ready for occupancy in mid-January.
 - The Commission only received two responses for its request for outside counsel. The Commission will go through the procurement process again in the hopes of attracting additional responses. Executive Director Zuniga expressed his hope that the two respondents would respond again. In the meantime, the emergency contract between the Governor’s office and Anderson & Kreiger LLP for outside counsel services will continue.
 - The Commission plans to receive records of transferred officers and terminated officers.
 - Commissioner Calderone moved to authorize the Executive Director and the General Counsel to approve extensions for good cause. Commissioner Wynn seconded the motion. The Commission unanimously extended the deadline by which those records need to be received by the Commission.
 - The Chair suggested the Commission form screening committees to evaluate candidates for the positions of director of certification and director of standards. The Chair announced the screening committee for the position of director of certification would comprise of Commissioners Calderone, Chery, and Bluestone, Executive Director Zuniga and General Counsel Ravitz. The screening committee for the position of director of standards would comprise of the Chair, Commissioners Kazarosian and West, Executive Director Zuniga, and General Counsel Ravitz.
5. Public comment
- The public raised questions relative to the interview questionnaire.
 - A member of the public raised a concern about certain questions re-traumatizing applicants. The Commission agreed to reconsider such questions.
 - A member of the public raised a question about anonymous complaints and department self-audits.

- A member of the public raised a question about the decision to follow a high degree of probability standard, instead of clear and convincing. The question was already addressed in the Phase I regulations.
6. Matters not anticipated by the Chair at the time of posting
 - The Chair did not have any new business.
 7. Adjourn
 - Commissioner Calderone moved to adjourn the meeting.
 - Commissioner Luma seconded the motion.
 - The Commission unanimously voted to adjourn the meeting.