

IDAPA 11 - IDAHO STATE POLICE

11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

DOCKET NO. 11-1101-1202

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 19-5107, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Adds emergency services dispatchers to the definition of "law enforcement profession" as used in two-year agreements authorized pursuant to Section 19-5112, Idaho Code. Establishes that an applicant who is the subject of an investigation by an agency with competent authority and jurisdiction is not eligible for POST certification of any kind while under investigation. Allows the POST Division Administrator to extend over one year the validity of an applicant's medical examination under extraordinary conditions and for good cause shown.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting and approval of the rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Trish Christy at (208) 884-7253.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 14th day of August, 2012.

William L. Flink, Division Administrator
Idaho State Police/Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642
Phone: (208) 884-7251
Fax: (208) 884-7295

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1101-1202

010. DEFINITIONS.

- 01. Act.** Title 19, Chapter 51, of the Idaho Code. (4-5-00)
- 02. Adult Probation and Parole Officer.** Any employee of the Idaho Department of Correction who is responsible for the supervision of offenders on probation or parole. (3-30-07)
- 03. Agency.** A law enforcement agency which is a part of or administered by the state or any political subdivision thereof and which is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; a juvenile detention center; a juvenile probation department; the Idaho Department of Correction; or a private prison contractor of the State Board of Correction that is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the facility. (4-2-08)
- 04. Agency Head.** A chief of police of a city, sheriff of a county, or chief administrator of any law enforcement agency of the state of Idaho or any political subdivision thereof who is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; the chief administrator of a juvenile detention center; the chief administrator of a juvenile probation department; the director of the Idaho Department of Correction; or the chief administrator of a private prison contractor of the State Board of Correction that is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the facility. (4-2-08)
- 05. Applicant.** Any person applying to participate in a POST training program or applying for POST certification. (4-2-08)
- 06. Basic Adult Probation and Parole Academy.** A basic course of instruction for Adult Probation and Parole Officers as recognized by POST Council. (4-2-08)
- 07. Basic Correction Academy.** A basic course of instruction for Correction Officers as recognized by POST Council. (4-2-08)
- 08. Basic Detention Academy.** A basic course of instruction for Detention Officers as recognized by POST Council. (4-2-08)
- 09. Basic Juvenile Detention Academy.** A basic course of instruction for Juvenile Detention Officers as recognized by POST Council. (4-2-08)
- 10. Basic Juvenile Probation Academy.** A basic course of instruction for Juvenile Probation Officers as recognized by POST Council. (4-2-08)
- 11. Basic Patrol Academy.** A basic course of instruction for Patrol Officers as recognized by POST Council. (4-2-08)
- 12. College Credit.** A unit of work towards a baccalaureate or vocational degree accepted by a college or university of higher education accredited by the Northwest Association of Schools and Colleges or other equivalent accrediting agency. (7-1-93)
- 13. Correction Officer.** Any employee of an Idaho Department of Correction facility or private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the correction facility. (3-30-07)
- 14. Correction Standards and Training Council.** An advisory group to the POST Council that is comprised of members from academia and law enforcement agencies. The purpose of the Correction Standards and Training Council is to advise POST Council in the planning, development, and operation of the Basic Correction Academy and the Basic Adult Probation and Parole Academy. (4-2-08)

15. **Council.** The Idaho Peace Officer Standards and Training Council. (4-2-08)
16. **County Detention Officer.** An employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates. (4-5-00)
17. **Crime of Deceit.** Any offense described in Section 18-1301 et seq., Idaho Code, (Bribery), Section 18-1401 et seq. (Burglary), Sections 18-1901 (Fictitious Stock Subscription), 18-1902 (Exhibition of False Papers to Public Officers), 18-1903 (Use of False Name in Prospectus), 18-1904 (Illegal Dividends and Reductions of Capital), 18-1905 (Falsification of Corporate Books), 18-1906 (Fraudulent Reports by Officers), 18-2202(1) (Computer Crime), 18-2302 (False Swearing as to Qualifications as Voter), 18-2304 (Procuring Illegal Votes), 18-2305 (Intimidation, Corruption and Frauds), 18-2306 (Illegal Voting or Interference with Election), 18-2307 (Attempting to Vote When Not Qualified or to Repeat Voting), 18-2309 (Officers Attempting to Change Result), 18-2310 (Forging or Counterfeiting Returns), 18-2311 (Adding to or Subtracting From Votes), 18-2316 (Tampering with Certificates of Nomination or Ballots), 18-2320 (Bribery of Electors), Section 18-2401 et seq. (Theft), Section 18-2601 et seq. (Falsifying Evidence -- Offering Forged or Fraudulent Documents in Evidence), Section 18-2701 et seq. (Bribery of Executive Officers), Sections 18-3105 (False Statement by Commission Merchant, Broker, Agent, Factor or Consignee to Principal or Consignor), 18-3106 (Drawing Check Without Funds -- Drawing Check With Insufficient Funds -- Prima Facie Evidence of Intent -- Standing of Person Having Acquired Rights -- Probation Conditions), 18-3123 (Forgery of a Financial Transaction Card), 18-3124 (Fraudulent Use of a Financial Transaction Card), 18-3125 (Criminal Possession of Financial Transaction Card and FTC Forgery Devices), 18-3125A (Unauthorized Factoring of Credit Card Sales Drafts), 18-3126 (Misappropriation of Personal Identifying Information), 18-3127 (Receiving or Possessing Fraudulently Obtained Goods or Services), 18-3201 (Officer Stealing, Mutilating or Falsifying Public Records), 18-3202 (Private Person Stealing, Mutilating or Falsifying Public Records), 18-3203 (Offering False or Forged Instrument for Record), 18-3204 (False Certificates or Other Instruments from Officers), 18-3206 (Mutilating Written Instruments), Section 18-3601 et seq. (Forgery), Sections 18-4616 (Defacing Marks on Logs or Lumber), 18-4617 (Stealing Rides on Trains), 18-4621 (Stealing Electric Current -- Tampering with Meters), 18-4622 (Stealing Electric Current -- Accessories Liable as Principals), 18-4624 (Taken or Converted Merchandise as Theft), 18-4626 (Willful Concealment of Goods, Wares or Merchandise -- Defense for Detention), 18-4630 (Illegal Use of Documents), 18-4701 (Alteration of Bills), 18-4702 (Alteration of Enrolled Copies), 18-4703 (Offering Bribes to Legislators), 18-4704 (Legislators Receiving Bribes), Section 18-5401 et seq. (Perjury), Section 18-6501 et seq. (Robbery), Sections 18-8201 (Money Laundering and Illegal Investment -- Penalty -- Restitution), 41-293 (Insurance Fraud), 41-294 (Damage to or Destruction of Insured Property), 41-1306 (False Financial Statements), 49-228 (Receiving or Transferring Stolen Vehicles), 49-231 (Farm Implements -- Purchasing or Selling When Identifying Number Altered or Defaced a Felony), 49-232 (Fraudulent Removal or Alteration of Numbers Prohibited), 49-518 (Altering or Forging Certificate -- Stolen Cars -- Destroying or Altering Engine or Decal Number -- Use of Fictitious Name -- Fraud), or any attempt, conspiracy or solicitation to commit any of the foregoing offenses, or any racketeering offense under Section 18-7801 et seq., Idaho Code, in which any of the foregoing offenses constitutes at least one (1) of the predicate acts, or any other crime defined in the Idaho Code involving any form of theft or including fraudulent intent as an element, or an offense equivalent to any of the foregoing in any other jurisdiction. (4-2-08)
18. **Direction.** Direction, at its broadest term, allows an employing agency to utilize a Level II reserve officer to work under the immediate presence and direction of a full-time peace officer of the same agency. This does not allow a Level II reserve officer to operate alone in his official capacity. He shall be under direct observation and control of the agency's full-time peace officer. (3-29-12)
19. **Field Training.** Training in which an individual receives formal instruction on the job for special and defined purposes. (7-1-93)
20. **Full Time.** Employment of one hundred sixty (160) hours or more per month for ninety (90) consecutive calendar days. (4-2-08)
21. **High School.** A school accredited as a high school by the Department of Education of the state in which the high school is located, or a school accredited as a high school by the recognized regional accreditation body, or a school accredited as a high school by the State University of the state in which the school is located. (7-1-93)

22. In-Service Training. Training designed to refresh or add to an individual's capabilities to do the task to which they are or may be assigned. (7-1-93)

23. Juvenile Detention Center. A juvenile detention facility that is part of or administered by the county or any political subdivision thereof and is responsible for the safety, care, protection, and monitoring of juvenile offenders. (4-2-08)

24. Juvenile Detention Officer. Any employee of a juvenile detention center who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center. (4-2-08)

25. Juvenile Probation Officer. Any employee of a juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders. (4-2-08)

26. Juvenile Training Council. An advisory group to the POST Council that is composed of the Director of the Department of Juvenile Corrections, a Magistrate, a county Juvenile Detention Director, a county Chief Probation Officer, a county Commissioner, a county Clerk, and a county Sheriff. The purpose of the Juvenile Training Council is to advise POST Council in the planning, development, and operation of the Juvenile Detention and Juvenile Probation Academies. (4-2-08)

27. Law Enforcement Profession. As used in agreements authorized pursuant to Section 19-5112, Idaho Code, means an employee of a police or law enforcement agency that is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; an employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates; an employee of a juvenile detention center that is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center; an employee of a county juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders; an employee of an Idaho Department of Correction facility or private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the correction facility; or an employee of the Idaho Department of Correction who is responsible for the supervision of offenders on probation or parole; or an employee working as an emergency services dispatcher. (4-2-08)()

28. Manual. This book of Rules as adopted by the Idaho Peace Officer Standards and Training Council. (4-5-00)

29. Part Time. Employment of less than one hundred sixty (160) hours per month for ninety (90) consecutive calendar days. (4-2-08)

30. Part-Time Juvenile Detention Officer. Any employee of a juvenile detention center that is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center, and does not meet the definition of "employee" as defined in Section 59-1302, Idaho Code. (4-2-08)

31. Peace Officer. Any employee of a police or law enforcement agency which is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. "Peace officer" also means an employee of a police or law enforcement agency of a federally recognized Indian tribe who has satisfactorily completed the peace officer standards and training academy and has been deputized by a sheriff of a county or a chief of police of a city of the state of Idaho. (4-5-00)

32. POST. The Idaho Peace Officer Standards and Training Program. (7-1-93)

33. POST Basic Training Academy. The Basic Adult Probation and Parole Academy, the Basic Correction Academy, the Basic Detention Academy, the Basic Juvenile Detention Academy, the Basic Juvenile

Probation Academy, or the Basic Patrol Academy. (4-2-08)

34. Prosecutor. A city prosecuting attorney, city assistant prosecuting attorney, county prosecuting attorney, county deputy prosecuting attorney, attorney general, deputy attorney general, United States attorney, or assistant United States attorney. (4-2-03)

35. Qualified Instructor. Any person certified by the Idaho POST Council as being competent to teach in a Council-approved school. (4-2-08)

36. Reserve Peace Officer. An individual assigned by an agency to perform the duties of a peace officer on a part-time basis. All reserve officers shall be under supervision as set forth in these rules unless they hold a current Part-Time Basic certificate. (4-2-08)

37. School. Any school, college, university, academy, or local training program which offers law enforcement training and includes within its meaning the combination of course curriculum, instructors and facilities, or any training session as certified by POST. (7-1-93)

38. School Director or Coordinator. An individual charged with the responsibility of conducting a training school under the provisions of the Act. (7-1-93)

39. Specification. A description of a requirement supplementing a section of the Rules. (7-1-93)

40. Supervision. Supervision allows the employing agency to utilize a Level I reserve officer to work by himself without the immediate presence or direction of a full-time peace officer, but acting under the overall on-duty supervision of an on-duty, full-time peace officer. This may allow a Level I reserve officer to work alone in his jurisdiction, without immediate oversight of an agency full-time peace officer, as long as there were another full-time peace officer of the agency working at the same time to provide supervision of the Level I reserve officer's activities. (3-29-12)

41. Temporary. Employment of less than ninety (90) consecutive calendar days. (7-1-93)

42. Trainee. An officer participating in any POST approved training program. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

059. PHYSICAL - MEDICAL.

01. Requirements. (7-1-93)

a. Hearing. The applicant shall have unaided or aided hearing between zero (0) and twenty-five (25) decibels for each ear at the frequencies of five-hundred (500) Hz, one thousand (1000) Hz, two thousand (2000) Hz, and three thousand (3000) Hz. Waiver of the above may be considered by the POST Division Administrator if accompanied by the certificate of an audiologist or ear, nose, and throat physician that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. The POST Division Administrator shall have the discretion to refer the application to the POST Council. (4-7-11)

b. Vision. (7-1-93)

i. The applicant shall possess binocular coordination that does not manifest diplopia; depth of proficiency of a minimum of one (1) minute of arc at twenty (20) feet; peripheral vision shall be binocularly two hundred (200) degrees laterally with sixty (60) degrees upward and seventy (70) degrees downward. There shall be no pathology of the eye; applicant shall possess a minimum seventy percent (70%) proficiency on a color

discrimination test. Waiver of the above may be considered by the POST Division Administrator if accompanied by the certificate of a vision specialist that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. The POST Division Administrator shall have the discretion to refer the application to the POST Council. (4-7-11)

ii. The applicant shall have uncorrected vision in each eye of no weaker than twenty/two hundred (20/200) with the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). An applicant who wears contact lenses is exempt from the uncorrected vision of twenty/two hundred (20/200), but shall have the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). A full eye examination shall be administered by an optometrist or ophthalmologist to any applicant who wears glasses whose uncorrected vision in either eye is twenty/one hundred fifty (20/150) or weaker. Waiver of the above may be considered by the POST Division Administrator if accompanied by the certificate of a vision specialist that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. The POST Division Administrator shall have the discretion to refer the application to the POST Council. (4-7-11)

c. Disease/Condition. The applicant shall be free from any impediments of the senses of sight, hearing, taste, smell, and touch; physically sound; well developed physically and in possession of his extremities; free from any physical defects, chronic or organic diseases, organic or functional conditions, or emotional or mental instabilities which may tend to impair efficient performance of duty or which might endanger the lives of others or the life of the officer. Waiver of the above may be considered by the Council upon the applicant's demonstration that the deficiency does not jeopardize or impair his ability to perform the duties of a peace, detention, juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. (4-7-11)

d. Agency Physical Readiness Test. To determine the applicant's physical capability, a physical readiness test based upon the job requirements of the appointing agency shall be administered by the appointing agency to each applicant. (4-7-11)

02. Procedures. (7-1-93)

a. A POST Council-approved medical history form shall be supplied by each applicant to the examining physician. The medical history shall include information on past and present diseases, injuries and operations. (4-7-11)

b. A medical examination shall be administered by a licensed physician or his designee to determine if the applicant is free from any physical, emotional, or mental condition which might adversely affect the applicant's ability to perform the duties of a peace, detention, juvenile detention, juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. The physician shall record his findings on the appropriate form and shall note thereon any past or present physical defects, diseases, injuries, operations or conditions of an abnormal or unusual nature, or indications of mental or emotional instability. A medical examination shall remain valid for one (1) year unless extended by the POST Division Administrator under extraordinary conditions and for good cause shown. (~~4-7-11~~)()

(BREAK IN CONTINUITY OF SECTIONS)

197. GENERAL PROVISIONS.

01. Certificates and Awards. Certificates and awards may be presented by the Council for the purpose of recognizing or raising the level of competence of law enforcement and to foster cooperation among the Council, agencies, groups, organizations, jurisdictions, and individuals. Communications Specialist Certification is not statutorily mandated, but is voluntary. Any applicant who is the subject of an investigation by an agency with

competent authority and jurisdiction is not eligible for POST certification of any kind while under investigation.

~~(4-2-03)~~()

02. Property. Certificates and awards remain the property of the Council and are only valid as long as the communications specialist is appointed as an Idaho communications specialist by a duly constituted Idaho law enforcement agency and has not been decertified. (3-29-10)

03. Eligibility. To be eligible for the award of a Level I, Level II, Level III, or Advanced certificate, each applicant shall be a full-time communications specialist appointed by a duly constituted Idaho law enforcement agency. (4-2-03)

04. Applications. All applications for award of the Level I, Level II, Level III, or Advanced Certificates shall be completed by the applicant on the prescribed form "Application for Certification" as provided by the POST Council. (4-2-03)

05. Submission. The Application for Certification form shall be submitted by the applicant to his agency head who shall review it for accuracy prior to signing it and forwarding it to the Council. Certificates shall be issued to the agency head for award to the applicant. (4-2-03)

06. Training. Training not listed on the applicant's Idaho POST training record shall be supported by copies of certificates, course outlines, or other verifying documents attached to the application. (4-2-03)

07. Minimum Standards. Each applicant shall meet the minimum standards for employment as provided in Sections 050, 051, 052, 054, 055, 056, and 058. (3-29-12)