



MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

May 20, 2024

CHAIR

Margaret R. Hinkle

COMMISSIONERS

Lester Baker

Hanya H. Bluestone

Lawrence Calderone

Larry E. Ellison

Deborah Hall

Marsha V. Kazarosian

Charlene D. Luma

Rev. Clyde D. Talley

EXECUTIVE DIRECTOR

Enrique A. Zuniga

In accordance with [Sections 18-25 of Chapter 30A of the Massachusetts General Laws](#), and [Chapter 20 of the Acts of 2021](#), as amended by [Chapter 22 of the Acts of 2022](#), by [Chapter 107 of the Acts of 2022](#), and by [Chapter 2 of the Acts of 2023](#), notice is hereby given of a meeting of the Peace Officer Standards and Training Commission. The meeting will take place as noted below.

NOTICE OF CERTIFICATION SUBCOMMITTEE MEETING AND AGENDA

Public Meeting #4

May 23, 2024

10:00 a.m.

84 State Street, Suite 200, Boston MA 02109

and

Remote Participation via [Zoom](#)

Meeting ID: 974 3031 4504

1. Call to Order
2. Approval of minutes
 - a. April 11, 2024
3. Draft Plan for Recertification
 - a. Criteria for Recertification – General Counsel Ravitz
4. Public comment
5. Matters not anticipated by the Chair at the time of posting
6. Adjourn

2a.

MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION
Certification Policy Subcommittee Meeting Minutes
April 11, 2024
10:00 a.m.
By Zoom

Documents Distributed in Advance of Meeting

- Minutes from 2-27-24 Subcommittee Meeting
- Memo - Proposal for Recertification of Certain Officers First Certified by POST
- Memo - Summary of Jurisdictional Research Regarding Officer Mental and Physical Wellness Standards
- Public comments received from 2/1/24 Subcommittee meeting to present.
- Draft Regulations 555 CMR 7.00: Recertification
- In-service Training Proposal
- Character and Fitness Proposal

In Attendance

- Commissioner Lawrence Calderone, Subcommittee Chair
- Commissioner Hanya H. Bluestone
- Commissioner Marsha V. Kazarosian
- Executive Director Enrique A. Zuniga
- General Counsel Randall E. Ravitz
- Director of Certification Steven R. Smith
- Elizabeth B. Smith, Paralegal
- Outside Counsel Lon F. Povich

1. Call to Order

- At 10:11 a.m., Chair Calderone welcomed the public to the Commission’s third Subcommittee meeting and called the meeting to order.

2. Approval of February 27, 2024 Minutes

- Chair Calderone asked for a motion to approve the minutes.
- Commissioner Bluestone pointed out a spelling correction in the proper title of “State Peer Support Network” which was listed as “Care Support Network.”
- Commissioner Kazarosian moved to approve the minutes with the amendment.
- Chair Calderone seconded the motion.
- The Commissioners voted as follows:
 - Chair Calderone – Yes
 - Commissioner Kazarosian – Yes
 - Commissioner Bluestone – Yes

3. Draft Plan for Recertification – Proposal to Recertify Academy Graduates – Enrique Zuniga, Executive Director

- POST Executive Director Enrique Zuniga provided background on the need to recertify individuals who graduated from the Academy back on July 1, 2021, whose initial

certification begins to expire in July 2024.

- Executive Director Zuniga stated the proposal from the Division of Certification is to continue certifying those officers who graduated between July 1, 2021, and June 30, 2022, using the same recertification process for the veteran officers currently in place. This process started on June 30, 2022 (for officers with last names A-H), continued on June 30, 2023 (for officers I-P) and is scheduled to continue for the group of officers with last names Q-Z by June 30, 2024.
- Director Zuniga stated the second part of the proposal is to consider bringing people to a certification expiration date that aligns with their date of birth. For officers who have been previously recertified by POST for a three-year term, they would have the subsequent period of certification extended to three years plus their birth date. This mechanism would begin to align officers' certification expiration to their birth month, which will be a more efficient process to manage subsequent recertifications.
- Commissioner Kazarosian made a motion to approve the proposal for recertification of officers first certified by POST to help align expiration dates going forward.
- Commissioner Bluestone seconded the motion. The Subcommittee voted as follows.
 - Commissioner Bluestone – Yes
 - Commissioner Kazarosian – Yes
 - Commissioner Calderone – Yes

Summary of Jurisdictional Research Regarding Officer Mental and Physical Wellness Standards- Elizabeth Smith, Paralegal

- Paralegal Smith provided a summary of feedback regarding this topic, received at the last Subcommittee meeting.
- Paralegal Smith also provided background on jurisdictional research, highlighting 3 states that require periodic renewal of officer certification: Connecticut, Minnesota, and New Jersey. All 3 States have a 3-year recertification period, which is similar to Massachusetts. Also highlighted were 5 states requiring periodic psychological evaluation: Connecticut, Illinois, Nevada, Maryland, and Missouri.
- Director Zuniga clarified that some of the research being presented relates to initial certification and Mass POST is currently considering recertification methods for veteran officers.
- Paralegal Smith continued to provide background on possible wellness evaluation programs and reiterated the purpose of developing these standards is not to punish officers, and that the Commission recognizes the mental and physical stress officers endure on the job. Establishing these standards will benefit officers by ensuring they maintain their physical and mental wellness.
- Commissioner Bluestone pointed out that there are currently officer wellness visits within Massachusetts coordinated by the Peer Support Network and the onsite Academy.
- Commissioner Kazarosian commented that all the information presented should be taken into consideration for a general overview as to how POST should deal with an obligation for ongoing wellness oversight, as opposed to post critical incident wellness only, which is not only important to the officer, but for the public as well.
- Director Zuniga stated that now would be a good time to prepare a survey asking officers if they have access to resources that are available to them and whether they use them.

4. Public comment

- Chair Calderone asked if anyone attending from the public had any questions.
 - Winthrop Police Chief Terence Delehanty submitted a question in the Q&A section, asking who would fund the requirement and followed up with a comment on the cost stating “The current expenses for these exams total approximately \$1,289.00 (\$589.00 for the physical exam and \$700.00) for the psychological exam). Multiplying these costs by the projected number of officers requiring recertification in the "second round of recertification" (as indicated on slide 8) - 9,414 officers - would result in a total cost of \$12,134,646.00 for communities. Without any financial support from the State, this unfunded mandate could impose unexpected financial challenges on many departments and communities.”
 - Director Zuniga responded that this is a local concern which the Commission is cognizant of, and it also depends on the interpretation of the legislation.
 - Commissioner Kazarosian agrees that while the Commission should remain cognizant regarding resources, it is not an entity that can control how much funding is available.
- Commissioner Kazarosian asked Director Zuniga if there is a timeline in presenting their recommendation to the full Commission for a vote.
- Director Zuniga responded by saying there isn’t an exact timeline, but sooner would be better, given the other steps involved such as a hearing, public comment period, and regulation promulgation.
- Chair Calderone assured the public that reviewing the material and feedback is the Commission’s priority and the process will be thorough in light of being speedy to ensure the best outcome.
- Commissioner Bluestone thanked the staff and reiterated how important and challenging the topic of officer wellness can be in balancing available resources with the stress that officers are sometimes under in doing their difficult job.
- Chair Calderone requested a motion to adjourn the meeting. Commissioner Kazarosian made the motion to adjourn. Chair Calderone seconded the motion. The Subcommittee voted as follows.
 - Commissioner Bluestone – Yes
 - Commissioner Kazarosian – Yes
 - Commissioner Calderone – Yes
- The motion was unanimously carried, and the meeting was adjourned.

3a.

555 CMR 7.00: RECERTIFICATION

Section

- 7.01: Authority and Scope
- 7.02: Definitions
- 7.03: Submission of Information to the Commission
- 7.04: Continuation of Certification Period
- 7.05: Conditional Certification
- 7.06: Determination of Character and Fitness
- 7.07: In-service Training
- 7.08: Division Evaluation of an Application
- 7.09: Satisfaction of Certification Requirements
- 7.10: Performance Review
- 7.11: Issuance of Decision
- 7.12: Possible Action Following Decision Declining to Grant Full Certification
- 7.13: Certification Status
- 7.14: Supervision by the Executive Director
- 7.15: Enforcement and Disciplinary Action

Note:

- This draft set of regulations is intended in part to:
 - Incorporate ideas for how the recertification process can be refined beginning with the July 1, 2025 class of applicants;
 - Limit the regulations to establishing certain key rules governing the recertification process, leaving the details of the implementation to be further developed and modified;
 - Harmonize the recertification regulations with 555 CMR 9.00, which govern all initial certifications and the recertification of independent applicants; and
 - Incorporate suggestions for improvement that have been offered over time, based on the Commission's experience in applying the recertification regulations, many of which have already been incorporated into 555 CMR 9.00.

7.01: Authority and Scope

Note:

- This section in part confirms that these regulations would apply only to endorsed applicants for recertification, while 555 CMR 9.00 would continue to govern independent applicants for recertification, as well as initial certifications.
 - (1) 555 CMR 7.00 is promulgated pursuant to M.G.L. c. 6E, §§ 3(a) and 4.
 - (2) 555 CMR 7.00:
 - (a) Governs the recertification of an applicant whose application is endorsed or supported by a law enforcement agency that is a current or prospective employer of an applicant.
 - (b) Does not govern the initial certification of an individual.
 - (c) Does not govern the recertification of an individual who submits, or intends to submit, an application to the Commission without the endorsement of an endorsing law enforcement agency, and whose recertification is thus governed by 555 CMR 9.00.
 - (3) Nothing in 555 CMR 7.00 is intended to:
 - (a) Establish a standard of care or create any power, right, benefit, entitlement, remedy, cause of action, claim, defense, immunity, privilege, or protection on the part of any other person or entity, except as expressly provided;
 - (b) Otherwise waive any power, right, benefit, entitlement, remedy, cause of action, claim, defense, immunity, privilege, or protection that may be available to the Commission; or
 - (c) Preclude the limiting, conditioning, restricting, suspending, or revoking of any certification in accordance with law.

7.02: Definitions

Note:

- This section is intended in part to address certain issues of terminology.
- Among other things, the regulations:
 - Make clear that a recertification is a type of certification, not a wholly different action, and thus simply speak in terms of certification, as opposed to both certification and recertification;
 - Make clear that “recertification” and “renewal” are synonymous;
- Other changes to the terminology used in the recertification regulations can be highlighted if helpful.

(1) 555 CMR 7.00 incorporates all definitions and rules of construction set forth in 555 CMR 2.02: *Definitions* and 2.03: *Construction*, except those definitions of terms that are defined in 555 CMR 7.02(2).

(2) For the purposes of 555 CMR 7.00, the following terms have the following meanings, unless the context requires otherwise:

Applicant. An individual on whose behalf an application is submitted to the Commission.

Application. A request for an individual to be certified as an officer.

Body or Person of Authority. An officer’s appointing authority or any supervisor therein; the Civil Service Commission; any arbitrator or other third-party neutral with decision-making power; and any court.

Certification. The certification of an individual as an officer pursuant to M.G.L. c. 6E, §§ 3(a) and 4, or pursuant to St. 2020, c. 253, § 102, either as an initial certification or a recertification, and regardless of whether it is subject to any condition, limitation, restriction, or suspension.

Certification Period. The period of time between the effective date and the expiration date of an individual’s certification as an officer, including any period of continuation provided for under M.G.L. c. 30A, § 13 or 555 CMR 7.04 beyond the third anniversary of the officer’s last certification.

Character and Fitness. Good moral character and fitness for employment in law enforcement, as that phrase is used in M.G.L. c. 6E, § 4(f)(1)(ix).

Commission. The Massachusetts Peace Officer Standards and Training Commission established under M.G.L. c. 6E, including its Commissioners and its staff.

Conditional Certification. A certification of the type described in 555 CMR 7.05.

Decertification or Revocation of Certification. A revocation of certification by the Commission pursuant to M.G.L. c. 6E, §§ 3(a) and 10, an action distinct from a denial, a nonrenewal, an expiration, or a suspension of certification.

Denial of Certification. A Commission action declining to grant a certification, made pursuant to M.G.L. c. 6E, §§ 3(a) and 4, an action distinct from a revocation or a suspension of certification.

Division. The Division of Police Certification established pursuant to M.G.L. c. 6E, § 4.

Appointing Authority. The law enforcement agency that employs or seeks to employ an individual as an officer, or the person or entity with the authority to appoint an individual as the head of a law enforcement agency.

Executive Director. The Executive Director of the Commission appointed pursuant to M.G.L. c. 6E, § 2, or that person’s designee for relevant purposes.

Final Decision. The ultimate Commission decision on an application, following any review or hearing or the expiration of the time afforded for an applicant to seek such review or hearing, and following the satisfaction of any conditions attached to a conditional certification or the expiration of the time to satisfy any such conditions, and thus not including a decision granting a conditional certification.

Full Certification. A decision granting certification for three years pursuant to M.G.L. c. 6E, § 4(f)(3), without any condition, limitation, restriction, or suspension imposed pursuant to M.G.L. c. 6E, § 3(a) or any other provision.

Identified CBU Head. An individual identified by an applicant or an applicant's appointing authority as the being the head of the applicant's collective bargaining unit.

Law Enforcement Agency. A "law enforcement agency" as defined in M.G.L. c. 6E, § 1.

MPTC. The Municipal Police Training Committee within the Executive Office of Public Safety and Security and established pursuant to M.G.L. c. 6, § 116.

Recertification. A type of certification involving a renewal of a previously granted certification.

Suspension. A suspension of a certification, including an administrative suspension, pursuant to M.G.L. c. 6E, §§ 3, 9, and/or 10.

7.03: Submission of Information to the Commission

Note:

- This section and others shift certain functions from the Executive Director to the Division of Police Certification. However, Section 7.14 below affirms that all staffers operate under the supervision and direction of the Executive Director.
- While applications would likely be submitted by agencies, as opposed to officers, this section gives the Division the latitude to require or allow either approach.
- This section, like 555 CMR 9.00, provides that, if an agency has not found an individual to possess character and fitness, the agency is precluded from endorsing the individual and submitting an application on the individual's behalf. Rather, the applicant would need to proceed independently under 9.00.

(1) The Division may establish the deadline by which, and the manner in which, any application, form, or information related to certification is to be submitted to the Commission by an applicant or appointing authority.

(2) The Division may extend any deadline that it establishes one or more times for good cause, provided that no single extension exceeds 30 calendar days. Any applicant or appointing authority seeking an extension must submit to the Commission, with its first request for an extension, a roster of officers as to whom it intends to seek certification and requires an extension.

(3) An appointing authority may not submit an application on behalf of an individual, or endorse an individual's application, unless the appointing authority has determined that the individual possesses character and fitness.

7.04: Continuation of Certification Period

Note:

- This section, which is similar to its predecessor, enables an officer to maintain an existing certification if the officer's recertification application has not been fully processed by the date on which the prior certification would normally expire.
- This section would also enable the Division to pursue its intended approach of shifting expiration dates to the birthdays or birth-months of applicants. At the same time, this section would not compel such an approach.
- It would allow the Division to fashion ways for agencies and officers to satisfy the application requirement.
- Where an applicant's original certification period extends beyond the applicant's birthday because the applicant is pursuing a challenge to an adverse decision, the Division will be able to make the start date for any new certification period retroactive to the applicant's birthday (or another date), provided the date is not less than three years since the applicant's last certification, pursuant to Section 7.13(2) below.

555 CMR: PEACE OFFICER STANDARDS AND TRAINING COMMISSION

- (1) Pursuant to M.G.L. c. 30A, § 13, the certification period for an applicant shall continue after the third anniversary of the applicant's last certification, if:
 - (a) The application, in a form prescribed by the Division, is submitted in advance of such anniversary;
 - (b) The application is submitted in advance of any applicable deadline, and in conformity with any procedures, established by the Division; and
 - (c) The Division finds the application to be sufficient.
- (2) The Division may establish that the inclusion of an applicant's name in a roster submitted in accordance with 555 CMR 7.03(2) or Division guidelines shall be considered an application for purposes of 555 CMR 7.04(1)(a).
- (3) A certification period continued pursuant to 555 CMR 7.04 will end upon the issuance of a final decision.

7.05: Conditional Certification

Note:

- This section was revised with the goal of condensing it, avoiding redundancy, and addressing grounds for conditional certification globally as opposed to requirement-by-requirement.
- The section addresses two types of conditional certification:
 - Those provided where the Division has not yet found an individual to have satisfied all certification requirements but there are grounds for temporarily certifying the individual nonetheless; and
 - Those provided where the Division has found an individual to have satisfied all requirements but still finds grounds to add a condition.
- The phrase "unable to grant a full certification" is intended to apply to:
 - Situations where an individual has not satisfied all requirements; and
 - Situations where the Division has been unable to complete the certification process.
- This section, like its predecessor, provides protection for officers who, for example, failed to satisfy a requirement through no fault of their own or because of an understandable reason.
- At the same time, this section is less forgiving than its predecessor, given that officers and agencies now have had more notice of the requirements and have more familiarity with the system, and there is no longer the same need to "equalize" the three thirds of the alphabet.
- The list of grounds for granting a conditional certification should not extend to failures such as:
 - Failing a background check;
 - Lacking character and fitness;
 - Having a felony conviction;
 - Being listed in a decertification database;
 - Having a background event that would have led to decertification in Massachusetts; and
 - Failing to complete training without having been excused.
- A policy question is whether to allow for conditional certification in situations involving failures other than those listed, such as not possessing current first aid and CPR certificates.

- (1) The Division shall conditionally certify an applicant if it is unable to grant a full certification and the inability is directly and solely attributable to one of the following or a combination of the following:
 - (a) A failure to satisfy training requirements, where the applicant has been afforded additional time to satisfy such requirements by the MPTC;
 - (b) Circumstances that are beyond the applicant's control and are attributable to a current or former employer of the applicant, the MPTC, or the Commission; or
 - (c) The applicant's having been on approved leave, the applicant's having experienced a demonstrable hardship, or circumstances beyond the applicant's control.
- (2) The Division otherwise may conditionally certify an applicant if:
 - (a) The provisions of 555 CMR 7.07 are satisfied;
 - (b) The applicant's application is substantially complete and does not reveal any basis for denying certification, but the Division is unable to grant a full certification because certain additional details need to be supplied or certain information needs to be verified; or
 - (b) The Division determines that an applicant has satisfied all requirements for certification, but nevertheless deems a conditional certification warranted.

(3) Where the Division conditionally certifies an applicant, it shall set appropriate conditions that must be met in order for the applicant to maintain a certification.

(4) An applicant shall not be required to satisfy any conditions attached to a conditional certification, nor shall any time periods associated with any such conditions begin to elapse, before the conclusion of any review or hearing, or the expiration of the time afforded for the applicant to seek such review or hearing, pursuant to 555 CMR 7.12.

(5) When an applicant fails to satisfy a condition of a conditional certification within the time allowed, taking into account the provisions of 555 CMR 7.05(4), the Division shall terminate the applicant's certification, unless good cause for an extension of time for the applicant to satisfy the condition has been shown.

(6) When an officer satisfies all conditions of a conditional certification within the time allowed, taking into account the provisions of 555 CMR 7.05(4), and the Commission has not otherwise limited, restricted, or suspended the officer's certification, the Division shall convert the conditional certification into a full certification and may set an effective date for the certification according to 555 CMR 7.13(2).

7.06: Determination of Character and Fitness

Note:

- This subject is being addressed separately.

7.07: In-service Training

Note:

- This subject is being addressed separately.

(1) The annual in-service training requirements and deadlines for the Commission shall be the same as those established by the MPTC.

(2) In order to receive a certification free of any condition, limitation, restriction, or suspension, an applicant must have completed, in advance of the third anniversary of the applicant's last certification, all annual in-service training that the applicant was required to complete by that point.

(3) Where an applicant is unable to satisfy the annual in-service training requirements, the applicant may be conditionally certified and receive a temporary exemption from the administrative-suspension provisions of M.G.L. c. 6E, § 9(b) if:

- (a) The applicant applies to the applicant's appointing authority for such a conditional certification and temporary exemption;
- (b) The applicant provides documentation to the appointing authority that sufficiently establishes that the applicant has been unable to complete required in-service training due to injury, physical disability, or a leave of absence;
- (c) The applicant otherwise meets all qualifications for certification; and
- (d) The applicant's appointing authority certifies that the applicant meets the criteria for a conditional certification and temporary exemption described in 555 CMR 7.07.

7.08: Division Evaluation of an Application

Note:

- This section is based on provisions of 555 CMR 9.00.

(1) The Division shall evaluate each substantially complete application that it receives.

(2) The Division may:

- (a) Evaluate whether an applicant has satisfied the requirements set forth in 555 CMR 7.09 in any order that the Division considers expedient; and
- (b) Refrain from evaluating whether any requirement has been satisfied after having determined that an applicant's failure to satisfy any other requirement is

sufficient to warrant denial of the application.

(3) Except as provided in 555 CMR 7.05, the Division may grant an application only if the Division determines that:

(a) The Division has received sufficient information relevant to the application; and

(b) The applicant satisfies all requirements set forth in 555 CMR 7.09.

(4) If the Division determines that the applicant has not satisfied any of the requirements set forth in 555 CMR 7.09, and has not found the circumstances described in 555 CMR 7.05(1) or (2) to apply, the Division shall deny the application in accordance with 555 CMR 7.11.

7.09: Satisfaction of Certification Requirements

Note:

- This section now expressly references the relevant statutory provisions.
- Unlike its predecessor, this section incorporates the provisions of M.G.L. c. 6E, § 4(f)(2) (no felony conviction; no listing in a decertification database; would not have been decertified previously; and satisfying certification standards in Commission regulations) in addition to the requirements of M.G.L. c. 6E, § 4(f)(1).
- The subsections below use the phrase “if and only if” as a way of establishing that certain actions: will be sufficient to satisfy a requirement; and must be undertaken in order for the requirement to be satisfied.
- As noted above, this section no longer addresses whether a failure to satisfy a requirement can be cured through a conditional certification or must instead lead to a denial of certification. That subject is instead addressed globally through Section 7.05 above.
- This section no longer refers to the Bridge Academy, as the program will be concluding.

Except as otherwise provided in 555 CMR 7.05 and 7.10, the Division shall evaluate whether the applicant has satisfied the requirements for certification established by M.G.L. c. 6E, §§ 4(f)(1), 4(f)(2), and 4(i), and 555 CMR 7.00, as follows.

Note:

- The predecessor of the subsection below automatically afforded officers until July 1, 2024 to satisfy the requirement of attaining age 21. These regulations afford no additional time, because: the prior deadline of July 1, 2024 will soon be reached; it no longer appears necessary to “equalize” officers; and it seems inconceivable that any presently serving officer could be found not to satisfy the requirement while having cause to complain of unfair surprise.
- As a practical matter, the Division will already have sufficient information from the previous certification process to evaluate this requirement.

(1) Age 21. The requirement of attaining the age of 21, established by M.G.L. c. 6E, § 4(f)(1)(i), shall be deemed satisfied if, and only if, the applicant attained the age of 21 before the third anniversary of the applicant’s last certification.

Note:

- The predecessor of the subsection below automatically afforded officers until July 1, 2024 to satisfy the requirement of successfully completing high school or its equivalent. These regulations afford no additional time, for the same reasons offered above.
- As a practical matter, the Division will already have sufficient information from the previous certification process to evaluate this requirement.

(2) High School Education or Equivalent. The requirement of successful completion of a high school education or equivalent, as determined by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(ii), shall be deemed satisfied if, and only if, the applicant successfully completed a high school education or obtained a General Educational Development (GED) certificate from an accredited program before the third anniversary of the applicant’s last certification.

Note:

- As noted above, Section 7.05 allows an officer who failed to satisfy the training requirement below to obtain a conditional certification only in limited circumstances.

(3) Basic Training Program. The requirement of successful completion of the basic training program approved by the MPTC, established by M.G.L. c. 6E, § 4(f)(1)(iii), shall be deemed satisfied if, and only if, at any point in time prior to the third anniversary of the applicant's last certification, the applicant successfully completed either: a basic training program approved by the MPTC; or a reserve training program approved by the MPTC and all additional training and service required by the MPTC pursuant to St. 2020, c. 253, § 102(b).

Note:

- The requirement below is being addressed separately.

(4) Physical and Psychological Fitness Evaluation.

Public Comments:

- ACLUM:
 - Agencies should be required to provide the Commission with documentation concerning the results of background checks.
 - Any questionnaire should include questions that capture additional aspects of an officer's history, such as adverse civil judgments and judicial findings, and admissions of misconduct.

Note:

- The background-check subsection below does not call for a collection and evaluation of information that presumably would have been collected and evaluated in a prior certification process, either under 555 CMR 7.00 or 555 CMR 9.00.
- It instead focuses on ensuring that the Commission has received, or will receive, information on certain matters that occurred within the last certification period.
- Such information concerns discipline, arrests, criminal prosecutions, civil actions, and administrative agency actions.
- The subsection states, "as established and further described in the statute," because the statute adds a proviso stating that, "if the applicant has been previously employed in law enforcement in any state or United States territory or by the federal government, the applicant's full employment record, including complaints and discipline, shall be evaluated in the background check."

(5) State and National Background Check. The requirement of successful completion of a state and national background check, including, but not limited to, fingerprinting and a full employment history, established and further described by M.G.L. c. 6E, § 4(f)(1)(v), shall be deemed satisfied if, and only if:

- (a) The applicant's appointing authority either:
 1. Certifies that, between the applicant's last certification and the third anniversary of the applicant's last certification, it has provided to the Commission with information conforming to Commission guidelines concerning any of the following occurring during that time period:
 - a. Discipline imposed on the applicant in relation to a matter reportable to the Commission under 555 CMR 1.01;
 - b. An arrest of the applicant;
 - c. The commencement, continuation, or termination of:
 1. A criminal prosecution against the applicant;
 2. A civil action against the applicant related to the applicant's service in law enforcement; or
 3. An administrative agency action against the applicant related to the applicant's service in law enforcement; or
 2. Provides to the Commission any information of the type described in 555 CMR 7.09(5)(a) that it has not previously provided to the Commission; and
- (b) The Division does not discern any basis for finding the requirement unmet.

Public Comments:

- ACLUM:
 - The examination requirement should need to be satisfied anew in each certification period, with officers completing examinations based on current training standards.
- MCOP:
 - This requirement should be deemed to have been satisfied upon completion at the hiring stage. Thereafter, the process should focus on whether the officer is in good standing and

any statutory disqualifier applies.

- Agencies should not be required to undertake additional steps without adequate funding.

Note:

- The subsection below requires passage of an examination each certification period, in part because:
 - It can be presumed that the Legislature intended to require as much, in light of:
 - The provision of M.G.L. c. 6E, § 4(i) stating, “The commission shall not recertify any person as a law enforcement officer unless the commission certifies that the applicant for recertification continues to satisfy the requirements of [M.G.L. c. 6E, § 4(f)]”; and
 - The nature of Chapter 6E and the larger session law through which it was adopted in their entirety, and the events surrounding the law’s enactment; and
 - Requiring as much can contribute to the goal of improving law enforcement;
 - An examination can be administered each certification period in a manner that does not create undue burden;
- An examination:
 - Does not need to be developed by the Commission, but can be approved by the Commission after being developed by others;
 - Does not need to be written;
 - Could be developed by a committee of law enforcement professionals; and/or
 - Could be administered online, perhaps using software that the MPTC will be acquiring.
- More specifically, the Commission could take a page from the State Ethics Commission’s conflict-of-interest training exam, which: is completed online; focuses on the law administered by the Commission and the consequences of violating the law; largely presents clear right/wrong issues, as opposed to debatable ones; allows those who answer questions incorrectly to keep trying, while providing explanatory information; thus focuses on educating, as opposed to passing and failing; and highlights certain rules that are more complex or less obvious.
- Thus, for example, the Commission could develop an exam that tests an officer’s understanding of:
 - Matters on which Chapter 6E focuses:
 - Adherence to law, and avoidance of criminal conduct;
 - Policing without bias, particularly bias based on enumerated characteristics;
 - Policing with integrity, and avoidance of corrupt practices and conduct prejudicial to the administration of justice; and
 - Properly using force, refraining from using force, intervening when witnessing improper uses of force, and avoiding injuries and deaths;
 - The disciplinary, civil, and criminal consequences of violations.
- If necessary, exam questions could be drawn from fact patterns in judicial opinions.

(6) Examination. The requirement of passage of an examination approved by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(vi), shall be deemed satisfied if, and only if, the applicant successfully completes a Commission-prescribed examination between the applicant’s last certification and the third anniversary of the applicant’s last certification.

Note:

- The prior regulations automatically allowed for conditional certification of up to 90 days for those who failed to satisfy the first aid and CPR requirement below. These regulations do not do so.
- A policy question is whether to take a more forgiving approach.
 - On the one hand, officers now have had more notice of the requirement and time to comply.
 - On the other hand, an officer in this situation presumably once satisfied the requirement but simply allowed the certificates to expire without timely renewing them. And it should not be difficult for an officer to attain compliance.

(7) First Aid and Cardiopulmonary Resuscitation Certificates. The requirement of possession of current first aid and cardiopulmonary resuscitation certificates or equivalent, as determined by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(vii), shall be deemed satisfied if, and only if, the applicant possesses such certificates or the equivalent that will not expire before the third anniversary of the applicant’s last certification.

Public Comments:

- ACLUM:
 - Agencies should be required to record each oral interview and provide a copy of the recording to the Commission.
- MCOP:
 - This interview requirement should be deemed to have been satisfied upon completion of an interview at the hiring stage.

555 CMR: PEACE OFFICER STANDARDS AND TRAINING COMMISSION

- “In the first round of recertifications, there was an oral interview requirement that most departments did not complete. Reasons included that it is too burdensome on already cashstrapped and understaffed departments to dedicate personnel to compete these unnecessary tasks.”
- As to the questions that were developed previously:
 - They “serve[d] no legitimate purpose because they [were] not asked or received by the Commission . . . unless the POST request[ed] them.”
 - “It is doubtful that any agency needs to ask or receive answers to these questions in order to decide whether an officer should be recommended for recertification,” and “[t]here is no evidence that . . . [they] provided any useful guidance to recommendations by agencies for officers to be recertified or of POST to make recertification decisions.”
 - “[T]he substance of the questions pertain to fitness and conduct issues that are best addressed locally through disciplinary process or evaluations.”
 - Questions regarding personal interactions with the criminal justice system, domestic violence, neglect, physical altercations, bankruptcy, social media use, and alcohol and cannabis use concern matters that can be addressed through the disciplinary process, are unrelated to effectiveness in policing, do not involve a widespread problem, are overreaching and too broad, and/or involve issues that should be dealt with individually with a goal of assistance and recovery.

Note:

- The subsection below would require an oral interview to be conducted during each certification period.
- It would need to be conducted in accordance with Commission guidelines, which may require:
 - A set of questions to be asked and answered;
 - A set of written questionnaire questions to be answered and discussed;
 - A set of topics to be discussed; or
 - A performance review to be conducted.
- The subsection would also require an agency to record an oral interview.
- It would not require an agency to automatically provide the Commission with the recording, but it would require preservation of the recording.
- Also, Section 7.15 below would also authorize the Commission to require agencies to create, preserve, and provide information, records, or other items.
- Additionally, separate regulations that would require agencies to create, maintain, and provide specific forms of information are being developed.
- The details regarding the implementation of such provisions could continue to be developed.
- The Commission could provide, for example, that the interview should cover:
 - The applicant’s achievements;
 - Challenges faced by the applicant;
 - Discipline imposed on the applicant, and how it might have been avoided;
 - An officer’s appreciation for matters on which Chapter 6E focuses, as listed above; and/or
 - Matters that the Commission believes should be better understood by members of law enforcement;
- Performance reviews are addressed in greater depth below.

(8) Oral Interview. The requirement of successful completion of an oral interview administered by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(viii), shall be deemed satisfied if, and only if:

- (a) Between the applicant’s last certification and the third anniversary of the applicant’s last certification, the head of the applicant’s appointing authority or the head’s designee orally interviews the applicant in accordance with Commission guidelines, which may require: a set of questions to be asked and answered, a set of written questionnaire questions to be answered and discussed, a set of topics to be discussed, or a performance review to be conducted;
- (b) Any such interview is audio-recorded and preserved.

Note:

- The requirement below is being addressed separately.

(9) Character and Fitness. The requirement of being of good moral character and fit for employment in law enforcement, as determined by the Commission, established by M.G.L. c. 6E, § 4(f)(1)(ix), shall be deemed satisfied if, and only if, the Division determines that the applicant meets the criteria set out in 555 CMR 7.06.

(10) No Felony Conviction. The requirement of not having been convicted of a felony, established by M.G.L. c. 6E, § 4(f)(2)(ii), will be deemed satisfied if, and only if, the Division does not find the applicant to have ever been so convicted, after the Division diligently takes steps to ascertain such fact.

Note:

- The subsection below makes clear that the NDI is the database maintained by IADLEST.

(11) No Listing in a Decertification Database. The requirement of not being listed in the National Decertification Index or the database of decertified law enforcement officers maintained by the Commission pursuant to M.G.L. c. 6E, § 13(a)(i), established by M.G.L. c. 6E, § 4(f)(2)(ii), shall be deemed satisfied if, and only if, the Division does not find the applicant to have ever been so listed, after the Division diligently takes steps to ascertain such fact. The National Decertification Index to be consulted is the database of the same name maintained by the International Association of Directors of Law Enforcement Standards and Training.

Note:

- The subsection below concerns the statutory requirement that an applicant “while previously employed in law enforcement in any state or United States territory or by the federal government, would [not] have had their certification revoked by the commission if employed by an agency in the commonwealth.”
- The subsection makes clear that the phrase “any state or United States territory or by the federal government” includes Massachusetts;
- It focuses on whether a certification would have been revoked pursuant to M.G.L. 6E, § 10(a)—which concerns mandatory decertification—if, at the relevant time, the applicant had been employed by an agency in Massachusetts and M.G.L. c. 6E, § 10(a) had been in effect.
- M.G.L. c. 6E, § 10(a) provides as follows:
 - The commission shall, after a hearing, revoke an officer’s certification if the commission finds by clear and convincing evidence that:
 - (i) the officer is convicted of a felony;
 - (ii) the certification was issued as a result of administrative error;
 - (iii) the certification was obtained through misrepresentation or fraud;
 - (iv) the officer falsified any document in order to obtain or renew certification;
 - (v) the officer has had a certification or other authorization revoked by another jurisdiction;
 - (vi) the officer is terminated by their appointing agency, and any appeal of said termination is completed, based upon intentional conduct performed under the color of office to: obtain false confessions; make a false arrest; create or use falsified evidence, including false testimony or destroying evidence to create a false impression; engage in conduct that would constitute a hate crime, as defined in section 32 of chapter 22C; or directly or indirectly receive a reward, gift or gratuity on account of their official services;
 - (vii) the officer has been convicted of submitting false timesheets in violation of section 85BB of chapter 231;
 - (viii) the officer knowingly files a written police report containing a false statement or commits perjury, as defined in section 1 of chapter 268;
 - (ix) the officer tampers with a record for use in an official proceeding, as defined in section 13E of chapter 268;
 - (x) the officer used force in violation of section 14;
 - (xi) the officer used excessive use of force resulting in death or serious bodily injury;
 - (xii) the officer used a chokehold in violation of said section 14;
 - (xiii) the officer engaged in conduct that would constitute a hate crime, as defined in section 32 of chapter 22C;
 - (xiv) the officer engaged in the intimidation of a witness, as defined in section 13B of chapter 268;
 - (xv) the officer failed to intervene, or attempt to intervene, to prevent another officer from engaging in prohibited conduct or behavior, including, but not limited to, excessive or prohibited force in violation of section 15;
 - (xvi) the officer is not fit for duty as an officer and the officer is dangerous to the public, as determined by the commission.
- A policy question is whether to extend the focus to non-mandatory grounds for decertification.

(12) Would Not Have Been Decertified Previously. The requirement that the applicant,

while previously employed in law enforcement in any state or United States territory or by the federal government, would not have had their certification revoked by the Commission if employed by an agency in the Commonwealth, established by M.G.L. c. 6E, § 4(f)(2)(iii), shall be addressed as follows. The requirement will be deemed satisfied if, and only if, the Division does not conclude that the applicant, while so employed within or outside of Massachusetts, would ever have had a certification revoked pursuant to M.G.L. c. 6E, § 10(a) if, at the relevant time, the applicant had been employed by an agency in Massachusetts and M.G.L. c. 6E, § 10(a) had been in effect.

Note:

- The requirement below is being addressed separately.

(13) In-service Training. An applicant must successfully complete all in-service training mandated by the MPTC as a requirement for certification. This requirement, established pursuant to M.G.L. c. 6E, §§ 3(a) and 4, shall be deemed satisfied if, and only if, the Division determines that the applicant successfully completed all in-service training required for the period of time between the effective date of the applicant's last certification and June 30 prior to the third anniversary of the applicant's last certification.

7.10: Performance Review

Public Comments:

- MCOP:
 - “[P]erformance evaluations are a mandatory subject of bargaining and many, if not all, departments have some sort of formal, or informal, procedure for evaluating their officers that was properly negotiated with their bargaining units.”
 - “We are opposed to any reduction in collective bargaining rights that govern how our members are evaluated.”
 - “The POST could encourage or mandate evaluations, but it should not dictate the method, criteria or implementation of them.”

Note:

- This section would generally provide that the Commission may require performance reviews as a vehicle for satisfying and evaluating the satisfaction of statutory certification requirements.
- It would essentially provide a trade-off: officers and agencies could be required to conduct performance reviews; but conducting such performance reviews could relieve them of having to satisfy certification requirements in other ways.
- A performance review could potentially encompass, for example:
 - An oral interview;
 - An examination;
 - A background check;
 - A check into first aid and CPR certificates;
 - A character and fitness evaluation;
 - A form of physical and psychological evaluation; and/or
 - Anything else that the Commission deems appropriate.
- A performance review could be designed to test an officer's appreciation for matters on which Chapter 6E focuses, as listed above.
- A policy question is whether to further develop such a provision or to leave it more general.

(1) The Commission may require law enforcement agencies to conduct performance reviews of officers according to Commission guidelines.

(2) The Commission may establish that one or more requirements for certification set forth in 555 CMR 7.09 may be satisfied through a performance review, in lieu of any method prescribed by 555 CMR 7.09.

Note:

- Sections 7.11 through 7.13 blend provisions found in the prior recertification regulations and those found in 555 CMR 9.00.
- Among these are provisions of 9.00 stating that:
 - A certification shall be active only while one is serving as an officer for a law enforcement agency; and
 - An individual is precluded from executing arrests or otherwise performing police duties and functions in various circumstances.

- Such sections provide additional forms of notice for identified CBU heads.

7.11: Issuance of a Certification Decision

- (1) The Division shall provide notification of a decision on the application by email to each of the following:
 - (a) The applicant;
 - (b) The applicant's appointing authority; and
 - (c) Any identified CBU head.
- (2) As a decision declining to grant full certification is distinct from decertification, the procedures prescribed by M.G.L. c. 6E, § 10 need not be followed before such a decision issued.
- (3) If the Division's decision on an application provides for anything other than full certification, the notification described in 555 CMR 7.11(1) shall also inform the applicant of:
 - (a) Any condition, limitation, or restriction attached to the certification, and any associated terms; and
 - (b) The ability to seek review by the Executive Director as provided for in 555 CMR 7.12(1) and a hearing as provided for in 555 CMR 1.10 and 555 CMR 7.12(2).

7.12: Possible Action Following Decision Declining to Grant Full Certification

- (1) An applicant who receives a decision from the Division declining to grant a full certification may seek review by the Executive Director as follows.
 - (a) Within 21 days of service by email of the Division's decision, the applicant or the applicant's appointing authority may submit a written petition to the Executive Director requesting review of the decision.
 1. If an applicant files the petition, the applicant shall provide a copy of the petition to the applicant's appointing authority and any identified CBU head at the time of its filing.
 2. If an appointing authority files the petition, the appointing authority shall provide a copy of the petition to the applicant and any identified CBU head at the time of its filing.
 - (b) The Executive Director may ask any entity or individual to provide additional information, orally or in writing, or to appear at a meeting concerning the matter. At any such meeting, the Executive Director shall have discretion to determine the extent to which an individual who does not have a right to appear may attend and participate.
 - (c) The Executive Director shall, within a reasonable time, provide a written decision on the petition to:
 1. The applicant;
 2. The applicant's appointing authority; and
 3. Any identified CBU head.
- (2) Following the process described in 555 CMR 7.12(1), an applicant or an applicant's appointing authority may request a hearing before the Commission concerning an application in accordance with 555 CMR 1.10: *Final Disciplinary Hearings and Appeals of Certification Decisions*.
- (3) The Commission may place an individual's certification on restricted status while review pursuant to 555 CMR 7.12(1) or a hearing pursuant to 555 CMR 7.12(2) is pending.
- (4) Where an applicant has received a decision declining to grant a full certification, the Commission may attach conditions, limitations, or restrictions on the applicant's ability to reapply.

7.13: Certification Status

- (1) An application process shall be deemed ongoing and not "finally determined," as that term is used in M.G.L. c. 30A, § 13, absent a final decision.

555 CMR: PEACE OFFICER STANDARDS AND TRAINING COMMISSION

- (2) Notwithstanding the provisions of 555 CMR 7.04, a final decision to certify an applicant made after the third anniversary of the applicant's last certification may be made retroactive to a date on or after such anniversary.
- (3) The granting of a certification shall not preclude the conditioning, limiting, restricting, suspending, or revoking of the certification in accordance with law, when warranted.
- (4) Except as expressly provided herein, an individual who holds a conditional, limited, or restricted certification is "certified," as that term is used in M.G.L. c. 6E.
- (5) The Commission may reconsider, and revise or vacate, a decision on an application, when such action is warranted.
- (6) If a decision to certify an applicant is vacated, the applicant shall be deemed to have been certified during the period of time between the decision to certify and the decision to vacate.
- (7) A certification granted pursuant to 555 CMR 7.00 shall be active only while the certified individual is serving as an officer for a law enforcement agency, and shall otherwise be restricted.
- (8) The following individuals may not execute any type of arrest, as that term is defined in 555 CMR 9.02(2), or otherwise perform police duties and functions:
 - (a) An individual who is serving as a law enforcement officer as that term is defined in M.G.L. c. 6E, § 1 – whether as an officer of a law enforcement agency; a special state police officer; a special sheriff; a deputy sheriff; a constable; or a special, reserve, or intermittent police officer – but is not certified;
 - (b) An individual whose certification is suspended;
 - (c) An individual whose certification has been revoked;
 - (d) An individual whose certification has been conditioned, limited, or restricted in a manner that precludes the relevant form of activity; and
 - (e) An individual who otherwise lacks the legal authority to engage in the relevant form of activity.

7.14: Supervision by the Executive Director

Notwithstanding any other provision of 555 CMR 7.00, each member of the Commission staff shall be subject to the supervision and direction of the Executive Director in implementing any aspect of such regulations.

7.15: Cooperation, Enforcement, and Disciplinary Action

Public Comments:

- **ACLUM:**
 - Agencies should not be allowed to submit an attestation supporting an officer without providing proof that qualifications have been met.

Note:

- These regulations would not require agencies to automatically provide the Commission with proof that requirements have been met. But, as noted above:
 - The regulations would authorize the Commission to require agencies to create, preserve, and provide information, records, or other items;
 - These regulations would also preclude an agency from endorsing an applicant, and submitting an application for the applicant, where the agency has not found the applicant to possess character and fitness; and
 - Separate regulations that would require agencies to create, maintain, and provide specific forms of information are being developed.

- (1) The Commission may direct an applicant or a law enforcement agency to take steps to facilitate the processing and evaluation of certification applications, including but not limited to, the following:
 - (a) Creating, preserving, or providing information, records, or other items;
 - (b) Ensuring that an individual affirms the veracity of information provided to the Commission under the pains and penalties of perjury and/or the risk of disciplinary

555 CMR: PEACE OFFICER STANDARDS AND TRAINING COMMISSION

- action pursuant to M.G.L. c. 6E, §§ 3(a), 4(f)(4), 5(c), 8, 9, 10, and/or 12;
- (c) Identifying the head of the applicant's collective bargaining unit, if any; and
 - (d) Providing an email address that may be used for correspondence related to the certification process for: the applicant; the agency; the applicant's appointing authority; and any identified CBU head.
- (2) An applicant or certified officer must promptly notify the Commission of any change in:
- (a) Contact information for the applicant or officer that has been provided to the Commission;
 - (b) The applicant or officer's place of employment; or
 - (c) The applicant or officer's work status, including on-leave status.
- (3) The Commission may take disciplinary action against an agency or an officer, pursuant to M.G.L. c. 6E, §§ 3(a), 4(f)(4), 5(c), 8, 9, 10, and/or 12, provided other applicable provisions of M.G.L. c. 6E and 555 CMR are satisfied, based on the following, in relation to the certification process:
- (a) A failure to act in accordance with M.G.L. c. 6E, 555 CMR, a Commission order, or a limitation or restriction on a certification;
 - (b) A failure to be accurate in any recordkeeping or any representations to the Commission;
 - (c) Harassment, intimidation, or retaliation against any individual for taking any step, or interference with one's taking of any step, that is required by M.G.L. c. 6E, 555 CMR, or the Commission; or
 - (d) Evidence of misconduct that is uncovered by the Commission.
- (4) The Commission may, by a vote taken in accordance with M.G.L. c. 6E, § 2(e), levy and collect assessments, fees, and fines, and impose penalties and sanctions against an agency or an officer, pursuant to M.G.L. c. 6E, § 3(a), based on a ground listed in 555 CMR 7.15(3)(a)-(d).
- (5) The Commission may refer information that it obtains in the certification process to an appropriate government office for possible criminal or civil enforcement action, pursuant to M.G.L. c. 6E, 3(a) and 8(c)(2).

REGULATORY AUTHORITY

555 CMR 7.00: M.G.L. c. 6E.

Good Moral Character and Fitness

I. Public Comments

A. We received comments from the ACLU, which they have summarized below:

1. a clear definition of “good character and fitness” to be added to 555 CMR 7.01;
2. nondiscretionary criteria that an agency must consider when assessing character to be added to 555 CMR 7.05(2)(a);
3. a requirement under 555 CMR 7.05(2)(b) that agencies provide a written explanation for a determination that an officer possesses good character where that officer engaged in recent misconduct or has a pattern of complaints alleging the same or similar misconduct;
4. an adoption of a new recertification plan that enacts the above requirement retroactively such that an agency must explain their determination that an officer that has engaged in misconduct since 2015 meets the character standard;
5. the addition of questions to the questionnaire to capture all aspects of an officer’s history, including any adverse judicial credibility determinations consistent with Graham, 493 Mass. 383, civil findings of liability for civil rights violations, and other admissions of misconduct;
6. no longer allowing agencies to attest without providing proof that a qualification standard has been met.

II. Define “being of good moral character and fit for employment in law enforcement” to provide clarity and make the provision as objectively concrete as possible, while recognizing the inherent need for some measure of flexibility.

A. Proposal:

Good moral character means to have a degree of honesty, integrity and discretion that the public, other members in law enforcement, and the Commission have the right to demand of an officer.

The Commission considers sufficient acquirements and qualifications to be those that are necessary to demonstrate an officer’s fitness for employment in law enforcement.

III. Proposal: Instead of incorporating by reference the standards and code established by the IACP, define the standards of ethics and the code of conduct in our regulations.

7.05: Determination of ~~Good~~ Character and Fitness ~~for Employment~~

- (1) General Standards Utilized by Employing Agency and Commission. Any assessment of whether an ~~officer-applicant~~ possesses ~~good~~ character and fitness ~~for employment~~ shall take into account on-duty and off-duty conduct.
- (2) Submission by ~~Employing Agency~~Appointing Authority.
 - (a) Each ~~applicant's appointing authority~~ ~~officer's employing agency~~ shall provide a submission to the ~~C~~commission concerning whether an officer possesses ~~good~~ character and fitness ~~for employment~~, in accordance with ~~C~~commission policy.

In assessing ~~good~~ character and fitness ~~for employment~~, an ~~appointing authority~~ ~~employing agency~~ may take into account whether an officer, ~~both on and off duty,~~

~~follows the agency's mission and values statement, oath of honor, and code of ethics;~~

~~adheres to state and federal laws and orders; -~~

~~acts consistently with recognized standards of ethics and conduct adopted by the employing agency or as set forth in the Law Enforcement Code of Ethics and Standards of Conduct most recently adopted by the International Association of Chiefs of Police, and~~

is worthy of the public trust and of the authority given to law enforcement officers.

In making such an assessment, the ~~law enforcement~~ agency also may rely on

- ~~•~~ questionnaires,
- ~~•~~ any guidance or forms approved by the Commission,

- performance reviews,
- relevant education,
- specialized training,
- professional awards,
- achievements,
- commendations by law enforcement agencies or officials or others,
- instances of imposed discipline,
- patterns of misconduct, ~~and~~
- any other evidence of past performance,
- the applicant's age at the time of the conduct;
- the amount of time since the conduct;
- the reliability of the information concerning the conduct;
- the seriousness of the conduct;
- the type of substantiated allegations (e.g., conduct unbecoming, untruthfulness, excessive force);
- the type of discipline imposed for each substantiated complaint;
- any decision from an arbitrator, the Civil Service Commission, or a court;
- whether the conduct would subject the individual to discipline under M.G.L. c. 6E;
- the cumulative effect of conduct or information;
- the evidence of rehabilitation;
- the applicant's positive social contributions since the conduct;
- the applicant's positive contributions to public welfare and safety since the conduct;
- the applicant's candor in the certification process;
- the materiality of any omissions or misrepresentations; and
- the length of service as an officer at any law enforcement agency, including, but not limited to, federal, state, and municipal law enforcement agencies.

IV. Proposal: Revise 555 CMR 7.05.

A. The regulations may be amended as follows.

B. Proposed regulatory change to 555 CMR 7.05(4):

- (4) Consideration of Particular Matters. In rendering a determination regarding an ~~applicant's officer's good~~ character and fitness ~~for employment~~, unless there have been allegations that an ~~officer applicant~~ has engaged in multiple instances of similar or related misconduct or protocols adopted by the commission provide otherwise,

neither the ~~employing agency appointing authority~~ nor the ~~Division of certification~~ shall consider an allegation of a particular instance of misconduct, where:

- (a) A body or person of An authority has made a decision in the applicant's officer's favor on the merits of a complaint alleging such misconduct;
- (b) The alleged misconduct is currently the subject of a pending investigation or adjudication by any authority;
- (c) The applicant officer has complied, or is in the process of complying, with any disciplinary action or other adverse decision by a body or person of an authority, in relation to the alleged misconduct, and the applicant officer has not engaged in any similar conduct since the discipline or decision;
- (d) The alleged misconduct did not result in either a disciplinary proceeding or court action, and the employing agency appointing authority has not offered a reasonable explanation as to why no such proceeding or action was commenced; or
- (e) The allegation is not specifically and credibly supported.

V. Sources

A. Statute:

M.G.L. c. 6E, § (f)(1):

The division of police certification and the municipal police training committee established in section 116 of chapter 6 shall jointly establish minimum certification standards for all officers that shall include, but not be limited to:

...

(ix) being of good moral character and fit for employment in law enforcement, as determined by the commission.

B. Regulation:

7.05: Determination of Good Character and Fitness for Employment

- (1) General Standards Utilized by Employing Agency and Commission. Any assessment of whether an officer possesses good character and fitness for employment shall take into account on-duty and off-duty conduct.
- (2) Submission by Employing Agency.
 - (a) Each officer's employing agency shall provide a submission to the commission concerning whether an officer possesses good character and fitness for employment, in accordance with commission policy.

In assessing good character and fitness for employment, an employing agency may take into account whether an officer

adheres to state and federal law,

acts consistently with recognized standards of ethics and conduct adopted by the employing agency or as set forth in the Law Enforcement Code of Ethics and Standards of Conduct most recently adopted by the International Association of Chiefs of Police, and

is worthy of the public trust and of the authority given to law enforcement officers.

In making such an assessment, the agency also may rely on questionnaires, any guidance or forms approved by the Commission, performance reviews, relevant education, specialized training, professional awards, achievements, commendations by law enforcement agencies or officials or others, instances of

imposed discipline, patterns of misconduct, and any other evidence of past performance.

...

(4) Consideration of Particular Matters. In rendering a determination regarding an officer's good character and fitness for employment, unless there have been allegations that an officer has engaged in multiple instances of similar or related misconduct or protocols adopted by the commission provide otherwise, neither the employing agency nor the division of certification shall consider an allegation of a particular instance of misconduct, where:

- (a) An authority has made a decision in the officer's favor on the merits of a complaint alleging such misconduct;
- (b) The alleged misconduct is currently the subject of a pending investigation or adjudication by any authority;
- (c) The officer has complied, or is in the process of complying, with any disciplinary action or other adverse decision by an authority, in relation to the alleged misconduct, and the officer has not engaged in any similar conduct since the discipline or decision;
- (d) The alleged misconduct did not result in either a disciplinary proceeding or court action, and the employing agency has not offered a reasonable explanation as to why no such proceeding or action was commenced; or
- (e) The allegation is not specifically and credibly supported.

C. Incorporated into the POST Commission's regulations by reference:

1. International Association of Chiefs of Police (IACP), Law Enforcement Code of Ethics: <https://www.theiacp.org/resources/law-enforcement-code-of-ethics>
2. International Association of Chiefs of Police (IACP), Standards of Conduct, <https://www.theiacp.org/sites/default/files/2020-06/Standards%20of%20Conduct%20June%202020.pdf>

Proposal: Add to certification standards - successful completion of in-service training

- I. The POST Commission has the statutory authority to add additional standards to the certification requirements.
- A. M.G.L. c. 6E, § 3(a)(28)(ii): “The commission shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the power to...adopt, amend or repeal regulations in accordance with chapter 30A for the implementation, administration and enforcement of this chapter, including, but not limited to, regulations: ... determining whether an applicant has met the standards for certification”
 - B. M.G.L. c. 6E, § 4(a)(1): “There shall be within the commission a division of police certification. The purpose of the division of police certification shall be to establish uniform policies and standards for the certification of all law enforcement officers, subject to the approval of the commission....”
 - C. M.G.L. c. 6E, § 4(f)(1): “The division of police certification and the municipal police training committee established in section 116 of chapter 6 shall jointly establish minimum certification standards for all officers that shall include, but not be limited to:” (emphasis added)
 - D. M.G.L. c. 6E, § 4(f)(2)(i): “The commission shall not issue a certificate to an applicant who ... does not meet the minimum standards enumerated in paragraph (1) or the regulations of the commission.”
 - E. M.G.L. c. 6E, § 4(i): “Each certified law enforcement officer shall apply for renewal of certification prior to its date of expiration as prescribed by the commission. The commission shall not recertify any person as a law enforcement officer unless the commission certifies that the applicant for recertification continues to satisfy the requirements of subsection (f).”
- II. Certain in-service training requirements:
- A. If an officer is found not to be in compliance, then the POST Commission has the statutory authority to administratively suspend the officer.¹

¹ At its November 22, 2022 meeting, the Commission voted to delegate to the Executive Director, or the Executive Director’s designee, the authority to administratively suspend law enforcement officers who fail to complete in-service training requirements

- B. The Commission adopted the requirements and deadlines for in-service training established by the MPTC as the requirements and deadlines of the Commission.²
- C. The Commission adopted the exemptions that the Commission approved on March 16, 2022 in the *Requirements and Plan for Recertification of Certain Law Enforcement Officers*.³
- D. The MPTC follows a fiscal year starting July 1 and ending on June 30. An officer must complete a total of 40 hours of in-service training each fiscal year.
- E. This is an annual training requirement, even if a certification term lasts three years. During the term of a certification, if a law enforcement officer is found to be non-compliant, the POST Commission can administratively suspend the officer pursuant to M.G.L. c. 6E, § 9(b).

III. Potential regulatory changes:

7.096: ~~Evaluation of Recertification Standards~~ Satisfaction of Certification Requirements

Except as otherwise provided in ~~555 CMR 7.04, the Commission~~ 555 CMR 7.05 and 7.10, the Division shall ~~treat the statutory recertification standards~~ evaluate whether the applicant has satisfied the requirements for certification established by M.G.L. c. 6E, §§ 4(f)(1), 4(f)(2), and 4(i), and 555 CMR 7.00, as follows:

...

(13) In-service Training. An applicant must successfully complete all in-service training mandated by the MPTC as a requirement for certification. This requirement, established pursuant to M.G.L. c. 6E, §§ 3(a) and 4, shall be deemed satisfied if, and only if, the Division determines that the applicant successfully completed all in-service training required for the period of time between the effective date of the applicant's last certification and June 30 prior to the third anniversary of the applicant's last certification.

7.07 In-service Training

- (1) The annual in-service training requirements and deadlines for the Commission shall be the same as those established by the MPTC.

² November 22, 2022 meeting.

³ November 22, 2022 meeting.

(2) Where an applicant is unable to satisfy the annual in-service training requirements, the applicant may be conditionally certified and receive a temporary exemption from the administrative-suspension provisions of M.G.L. c. 6E, § 9(b) if:

(a) The applicant applies to the applicant's appointing authority for such a conditional certification and temporary exemption;

(b) The applicant provides documentation to the appointing authority that sufficiently establishes that the applicant has been unable to complete required in-service training due to injury, physical disability, or a leave of absence;

(c) The applicant otherwise meets all qualifications for certification; and

(d) The applicant's appointing authority certifies that the applicant meets the criteria for a conditional certification and temporary exemption described in 555 CMR 7.07.