

Alaska Police Standards Council (APSC) Response to Questions Relevant to the Proposed Corrections, Probation, Parole, and Municipal Correctional Officer Regulations Relating to Basic Standards, Permanent Employment, Certification, Reciprocity, Personnel Reports, Academies and Training Records.

Here is a link to the Public Comment Notice:

<https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=180703>

Question 1.

13 AAC 85.210 (e) is amended to read:

(e) A probation, parole, or correctional officer must begin field training, using the Department of Corrections Field Training Manual, immediately after the date the officer is hired. The Field Training Manual must be completed and sent to the council within **twelve** [SIX] months after the date the officer began work with the department.

I was hoping to get more clarification on why this change is being considered. At first glance we were concerned that this may lead to a delay in important and necessary training to new recruits that could be vital to safety and security inside Alaska's corrections institutions. Is this change being made to reflect the current situation that exists? Training has been a significant topic of discussion over the last five months, including by Legislators in Juneau, so the extension of the completion of this training seemed potentially counter to a lot of that movement.

Council Response:

The requirement to start Field Training immediately upon hire is not changing. The Department of Corrections (DOC) requested this time change as some of their officers work a week on/week off schedule which may cause the time to complete the Field Training program to extend beyond six months, as the officers are not working every week. This change will allow DOC to complete the Field Training program within the proscribed time frame and is not intended to enable or encourage the delay of any necessary training.

Question 2.

13 AAC 85.250 is amended by adding a new subsection to read:

(d) A participating agency shall notify the council of an allegation of misconduct by an officer employed by their department within 30 days of the allegation being sustained by administrative review, if the misconduct alleged may be cause for revocation under 13 AAC 85.270.

At first review this change is concerning and I was hoping to get a better idea why it is being added. I was also hoping to get some additional clarification on how the Council will interpret and apply this new language.

Council Response:

It had been brought to the Council's attention that agencies are only required to report misconduct when an employee resigns in lieu of discharge or is terminated. Currently an agency is not required to report sustained misconduct that may be cause for revocation if the misconduct does not result in termination or resignation in lieu of discharge. This proposed change addresses this by requiring an agency to report sustained misconduct which may result in revocation within 30 days of being sustained.

- If accepted, would this mean all discipline of any Officer, no matter what it was, will be sent to APSC? Does this include Letters of Warning?

Council Response:

Only sustained misconduct which may be cause for revocation shall be sent to APSC. If an officer received a letter of warning for sustained misconduct which may be cause for revocation, that would fall under this regulation and DOC shall notify APSC. A letter of warning received for conduct which is not cause for revocation would not be reported to APSC.

- What specifically would be covered under “cause for revocation”? Would it mean that only those items specifically covered under 13 AAC 85.270 (Revocation of Certificate), which include the below items would be sent to APSC?
 - “convicted of a misdemeanor crime of domestic violence”
 - “convicted of a felony, or of a misdemeanor crime”
 - “used marijuana”
 - “illegally used or possessed any other controlled substance”
 - “illegally purchased, sold, cultivated, transported, manufactured, or distributed a controlled substance”
 - “has been discharged, or resigned under threat of discharge”

Council Response:

The items listed under 13 AAC 85.270 are the causes for revocation which would be reported to APSC under this regulation. Please refer to the full text of 13 AAC 85.270 for all causes of revocation.

- From the list above, it would appear that only disciplines that include a felony charge, a drug offense, or included a discharge or resignation would be sent to APSC. Is that correct?

Council Response:

Any misconduct which falls under 13 AAC 85.270 shall be reported. Please refer to the full text of 13 AAC 85.270 for causes of revocation.

- If an Officer was terminated, but the determination was being challenged through the Grievance process or through the Courts would it still to be forwarded to APSC or would

APSC wait until a final determination was made prior to deciding on the Officer's certification?

Council Response:

The report of the sustained misconduct would be forward to APSC within 30 days, regardless of further proceedings by the employee or agency. APSC's administrative actions are independent from employment actions and proceedings. The following two regulations address this.

- Denial of Certificate Regulation 13 AAC 85.260(f) reads: a personnel action or subsequent personnel action regarding a probation, parole, correctional, or municipal correctional officer by the officer's employer, including a decision resulting from an appeal of the employer's action, does not preclude the council from denying the officer's basic certificate under this section.*
 - Revocation of Certificate Regulation 13 AAC 85.270(f) reads: a personnel action or subsequent personnel action regarding a probation, parole, correctional, or municipal correctional officer by the officer's employer, including a decision resulting from an appeal of the employer's action, does not preclude the council from revoking the officer's basic certificate under this section.*
- What if an Officer is found innocent by an Arbitrator or judge, will the revocation of the certificate be rescinded automatically?

Council Response:

No. An arbitrator or judge does not always look at the same issues in a case as the council. Thus, an officer may be found innocent by an arbitrator or judge and APSC may still revoke the officer's certification. This has occurred in the past and the courts have upheld the actions of APSC. Regulations do provide for an officer to appeal to the council to rescind a previous revocation; refer to 13 AAC 85.270 (d) for specific details and circumstances.