

Peace Officer Certification

Prepared by:
Tisha Jones, CJTC Certification Manager

Peace Officer Certification

RCW 43.101.095

- **As a condition of continuing employment as peace officers, all Washington peace officers:**
 - Shall timely obtain certification as peace officers, or timely obtain certification or exemption therefrom, by meeting all requirements of RCW 43.101.200 as that section is administered under the rules of the commission, as well by meeting any additional requirements under this chapter; and
 - shall maintain the basic certification as peace officers under this chapter.



Commission v. Certification

▪ **Commission**

- Issued by the appointing authority of the law enforcement agency
 - Lost when separating from employment

▪ **Certification**

- Issued by the State
- Will lapse after a break in service of 24-60 months
- Will expire after a break in service greater than 60 months

Conditions of Employment

Chapter 139-07 WAC

- Explains the minimum requirements for the
 - Background,
 - Psychological exam, and
 - Polygraph (truth assessment).
- The **results** of these requirements **shall be used** by the employer **to determine the applicant's suitability** for employment as a fully commissioned peace officer or a reserve officer.
 - RCW 43.101.080(19)



Conditions of Employment cont.

▪ WAC 139-07-020

- Background Information
 - ID's minimum requirements for the applicant:
 - to include immigration status/citizenship; lawful permanent residency; proof of education; personal references; previous e
 - ID's minimum requirements for the agency:
 - Query LE agency records, motor vehicle driving records; submit fingerprints to FBI and WSP, query NCIC/III & WACIC/WASIS; contact previous employers/schools/references

▪ WAC 139-07-030

- Psychological Examination
 - Psychiatrist licensed in WA under Chapter 18.71 RCW or psychologist licensed in WA under Chapter 18.83 RCW
 - Psychological exams expire after 6 months
 - One psychological examination **may be shared** with more than one law enforcement agency **under the following circumstances:**
 - Agency and applicant agree to share it
 - The exam was completed within 6 months of the request
 - The job analysis of the initiating and other LE agency must be substantially similar



Conditions of Employment cont.

▪ WAC 139-07-030

- Polygraph exam or other truth verification assessment
 - At this time, only the polygraph exam is accepted
 - Preemployment tests and assessments are considered screening devices and are conducted in the absence of a known incident, allegation, or particular reason to suspect someone's involvement. The truth verification assessment questions should be simple, direct, and easily understood by the applicant. **Test information and results should be considered confidential within the screening process to be used exclusively by the county, city, or state law enforcement agency to assist with the selection of their applicant.**
 - Results cannot be shared, each agency must conduct their own exams
 - An experienced polygraph examiner who is a graduate of a polygraph school accredited by the American Polygraph Association (APA) shall conduct the polygraph test. The examiner must also show that he or she is in compliance with completion of a minimum of thirty hours of APA-approved continuing education every two calendar years.



Conditions of Employment FAQ

- **I have an employee who is transferring to a fully commissioned or reserve officer position, can I use the polygraph/psychological/background check with fingerprint submission from when they were originally hired?**
 - No, as per [RCW 43.101.080\(19\)](#) & [RCW 43.101.095](#), your agency must conduct a new polygraph, psychological, and background check on the employee transferring to a fully commissioned or reserve
 - [RCW 43.101.080\(19\)](#) specifically states "To require county, city, or state law enforcement agencies that [make a conditional offer of employment to an applicant as a fully commissioned peace officer or a reserve officer](#) to administer the background, psychological, and polygraph."
- **But I'm not allowed to polygraph a current employee:**
 - This is not true, [RCW 49.44.120](#) was updated in 2005 & again in 2007 specifically to address this issue.



Special Commission & Limited Authority

Not Eligible for Peace Officer Certification.

• Reserve officers



• Railroad police officers



• Limited Authority Agencies



Washington State
Liquor and Cannabis Board



Form CJ-1903 Notice Of Hire

WAC 139-05-200

- Each law enforcement...must **immediately notify** the commission...of each instance where a commissioned officer **begins continuing and regular employment with that agency.**



Certification Application

RCW 43.101.095 (5)

▪ **Must be signed**

- A condition of continuing employment
- Signed at BLEA or Equivalency Academy

▪ **Authorizes the release of information from**

- Officer's personnel file
- Termination records
- Any other information related to certification
- **Including internal investigations**




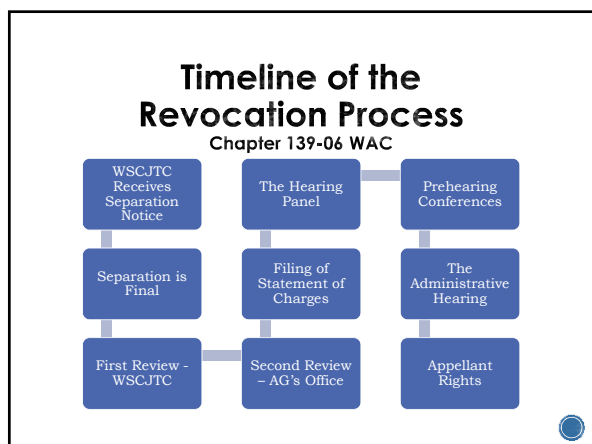

Peace Officer Certification Revocations

A Comprehensive Review of the Process

Prepared by:

Tisha Jones, CJTC Certification Manager
Susie Giles-Klein, Assistant Attorney General





The Agency's Duty to Disclose

- **WAC 139-06-030** - all agencies **shall** cooperate in **any** investigation conducted by the commission regarding a peace officer's certification status.
- **RCW 43.101.135** - Upon **termination of a peace officer for any reason**, including resignation, the agency of termination **shall**, within fifteen days of the termination, notify the commission on a personnel action report form provided by the commission.
- The agency of termination **shall**, upon request of the commission, provide such **additional documentation** or information as the commission deems necessary to determine whether the termination provides grounds for revocation under RCW 43.101.105.
- The commission **shall** maintain these notices in a permanent file, subject to RCW 43.101.400.



Notice of Separation



Discharged for Disqualifying Misconduct

RCW 43.101.010 (8)

- **Before Revocation, There Must be a Termination**
 - Termination based on **Conviction/Guilty Plea** for Disqualifying Misconduct
 - Termination for **Conduct Constituting** Disqualifying Misconduct



What is “Disqualifying Misconduct?”

- **“Disqualifying Misconduct” under RCW 43.101.010(8)**

- (8) “Discharged for disqualifying misconduct” means terminated from employment for: (a) Conviction of (i) any crime committed under **color of authority as a peace officer**, (ii) any crime involving **dishonesty or false statement** within the meaning of Evidence Rule 609(a), (iii) the unlawful **use or possession of a controlled substance**, or (iv) any other crime the conviction of which **disqualifies a Washington citizen from the legal right to possess a firearm** under state or federal law; (b) **conduct that would constitute any of the crimes addressed in (a) of this subsection**; or (c) knowingly making materially false statements during disciplinary investigations, where the false statements are the sole basis for the termination.



Resignation or Retirement in Anticipation of Discipline

RCW 43.101.010 (9)

- When **the totality of the circumstances** support a finding that the officer resigned in anticipation of discipline, whether or not the misconduct was discovered at the time of resignation, and when such discipline, if carried forward, **would more likely than not have led to discharge for disqualifying conduct...**



Criminal Convictions Which May Lead to Revocation

- **RCW 43.101.010(a)** - All convictions due to “disqualifying misconduct” resulting in termination
AND
- **RCW 43.101.105(c)** - Felony convictions (all felonies – no termination required)



Documents Needed by CJTC

- **Full Internal Investigation File, including but not limited to:**
 - Summary
 - Findings
 - Supporting Documents
 - Transcripts, documents relied upon in investigation.
 - Audio
 - Video
- **Other Relevant Items to Send CJTC:**
 - Grievance(s) filed up to and including Arbitration
 - Any documentation regarding Potential Impeachment Disclosure (PID)
 - Any documentation regarding notice to the "Brady List"
 - Any agreements reference this separation



Documents Needed by CJTC *If Arbitration Occurred*

- **In addition to the items on the previous slide, we will need:**
 - Arbitrator's Decision
 - Exhibits (from all parties)
 - Videos, if applicable
 - Transcript of proceeding, if available
 - Briefing, if available



First Review – CJTC

RCW 43.101.155; WAC 139-06-040

- Peace Officer is not notified of this action
- CJTC conducts a **cursory review** to determine if the file should:
 - Be forwarded to the AAG for a comprehensive review, or
 - Be declined
- If declined, the employer may request a review by the Commission Chair
 - Employing agency has 14 days to request review
 - If they don't, file is destroyed
 - If they do, the Chair can request the AG to review
- The initial review process takes between **30-60 days**, depending on various factors.



Second Review – Attorney General's Office

- AAG only reviews files that have made it through the initial review process at CJTC
- AAG conducts a **comprehensive review of the entire file** to determine whether:
 - The behavior that resulted in discharge meets the statutory definition of "disqualifying misconduct" under RCW 43.101.010(8)
 - Sufficient evidence exists to meet CJTC's burden of proof at hearing
- Following review, if AAG agrees that a revocable offense occurred and is supported by clear and convincing evidence, she drafts a **Statement of Charges**



Filing the Statement of Charges

- SOC forwarded to Hearings Coordinator for processing/service
- Peace Officer is served with SOC by both mail and email, if available
- Peace Officer has 60 days to respond. Their options are:
 - Request a hearing
 - Decline a hearing
- No Response = **Default**



The Hearing Panel

RCW 43.101.380(2)(a), (b), and (c)

Peace Officer	WA State Patrol	Tribal Police
<ul style="list-style-type: none"> • Police Chief • Sheriff • 2 WA Certified Peace Officers <ul style="list-style-type: none"> • At or below 1st line supervisor with 10 years of experience as a peace officer • Representative of a CC or 4-year, who is not currently a peace officer 	<ul style="list-style-type: none"> • Police Chief or Sheriff • Administrator of WSP • At or below 1st line supervisor with 10 years of experience as a peace officer <ul style="list-style-type: none"> • Trooper • City/County Officer • Representative of a CC or 4-year, who is not currently a peace officer 	<ul style="list-style-type: none"> • Police Chief or Sheriff • Tribal Police Chief • At or below 1st line supervisor with 10 years of experience as a peace officer <ul style="list-style-type: none"> • Certified Tribal Officer • City/County Officer • Representative of a CC or 4-year, who is not currently a peace officer



Prehearing Conferences

1st Prehearing Conference

Discuss prehearing issues and schedule the following dates:

- Hearing Date
- Exchange Discovery
- Witness Lists, including objections
- Exhibit Lists, including objections
- Prehearing Briefs
- Second Prehearing Conference

2nd Prehearing Conference

Discuss any remaining prehearing issues, and ensure the following have been exchanged:

- Discovery; Witness Lists; Exhibit Lists; Prehearing Briefs
- Presiding hears and rules on any **motions**
- Presiding hears and rules on any **objections** to witness and exhibit lists
- Confirm hearing date
- Commission staff prepares and delivers signed copies to all parties.



The Administrative Hearing

- Hearings are held at the Burien Campus
 - Petitioner = CJTC
 - Respondent = Accused Officer
- CJTC must prove its case by **Clear, Cogent, and Convincing Evidence**
- Hearing is structured similar to a trial
- Panel members = judge & jury.
 - After hearing, the Panel deliberates and issues the Final Order
 - Final Order = findings of fact and conclusions of law

Failure to Appear = Automatic Default



Appellate Rights

- The Final Order will either:
 - **REVOKE** the Respondent's Peace officer Certification, or
 - **DENY** the Statement of Charges
- If the Final Order revokes, the Respondent has some options:
 - Petition for **Reconsideration** RCW 34.05.470, **and/or**
 - Petition for **Judicial Review** under RCW 34.05, Pt. V
- The employing agency cannot appeal the decision
- CJTC will not appeal the Final Order, but will defend the Final Order against appeals by Respondent



Consequences of Revocation

- Most other states will not hire a revoked officer
 - Added to the National Decertification Index through IADLEST
- Revocation may affect eligibility of LEOSA
- May affect eligibility of other professional licenses



Application For Reinstatement of Eligibility for Certification

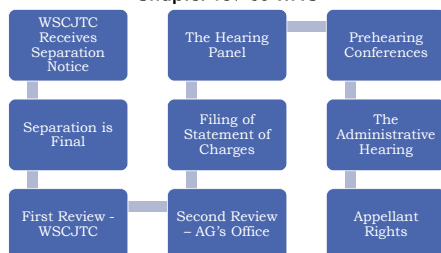
RCW 43.010.115; WAC 139-06-130

- A peace officer whose certification is denied or revoked based upon discharge for disqualifying misconduct, but not also based upon a felony criminal conviction, may, **five years after revocation or denial**, petition the commission for certification or reinstatement of certification.
- The commission shall hold a hearing on the petition for certification or reinstatement of certification.
- The commission may allow certification or reinstatement of certification upon finding that **the peace officer has engaged in no further disqualifying or similar misconduct**, has had **no further criminal convictions**, has engaged in **no other illegal or unethical conduct**, and is **otherwise eligible** for certification.



Review of Revocation Process

Chapter 139-06 WAC



Questions?



Contact Information

- Certification Manager:
Tisha H. Jones
tjones@cipc.state.wa.us
Desk: (360) 486-2431
Mobile: (360) 250-1440





NOTICE OF PEACE OFFICER HIRE

This form must be submitted to the CJTC **immediately** upon hire or appointment. It must be signed by the hiring authority or designee of the law enforcement agency. In the instance of a one-officer department, or where the police chief is the applicant, this form must be completed and signed by the sheriff of the county in which such department is located.

Section 1: Peace Officer's Information

Agency (Do not abbreviate):		Hire Date (MM/DD/YYYY):
Peace Officer's Legal Name (Last, First, MI):		Gender Identity: <input type="checkbox"/> Male <input type="checkbox"/> Female
Date Of Birth (MM/DD/YYYY):	SSN:	Most Previous Law Enforcement Employment: Agency: _____ Location (City, State): _____ Employment Dates (MM/YYYY – MM/YYYY): _____ – _____
Peace Officer's Agency Assigned Email Address:		
WSP SID (not ORI) <u>or</u> DATE FINGERPRINTS SUBMITTED:		Status: <input type="checkbox"/> Officer <input type="checkbox"/> Deputy <input type="checkbox"/> Reserve <input type="checkbox"/> Other: _____

Section 2: Conditions of Employment and Requirements of Training

[RCW 43.101.095](#) sets the conditions of peace officer certification and [Chapter 139-07 WAC](#) sets the conditions of employment for both peace officers and reserve peace officers. It is expected the agency review those Statutes and Rules prior to signing this form.

- Per WAC 139-07-020, this agency completed its own background investigation to include the submission of fingerprints for this applicant on: _____
- Per WAC 139-07-030, this agency administered a psychological examination for this applicant on: _____
- Per WAC 139-07-040, this agency completed its own polygraph test for this applicant on: _____

- **Basic Law Enforcement Academy**, training must occur within 6 months of hire date. Please refer to [WAC 139-05-200](#) for admission requirements.
- **Basic Equivalency Academy**, applicants must attend the first available course offered after hire date. Please refer to [WAC 139-05-210](#) for admission requirements.
- **Basic Reserve Officer Academy**, [WAC 139-05-810](#) & **Basic Reserve Equivalency Academy**, [WAC 139-05-825](#), as per RCW 10.93.090, peace officers appointed as reserves must complete one of these academies prior to exercising any arrest authority. Please refer to the specific WAC for admission requirements.

Section 3: This section must be signed by the hiring authority, or designee.

I understand that this is an application for certification or training to the Commission. See [RCW 43.101.105\(b\)](#). I hereby attest that I have read and understand the requirements of [RCW 43.101.095](#) and [Chapter 139-07 WAC](#) and above named individual has met these requirements and is a duly authorized employee of this agency.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed this _____ day of _____, 20____, in _____, Washington.

Hiring Authority/Designee's Signature

Hiring Authority/Designee's Printed/Typed Name:

Hiring Authority/Designee's Rank/Title:



NOTICE OF PEACE OFFICER SEPARATION

This form must be submitted to the CJTC **with 15 days of separation**; regardless of pending appeals. It must be signed by the hiring authority or designee of the law enforcement agency.

Section 1: Peace Officer's Information

Peace Officer's Legal Name (Last, First, MI):	CJTC Student Identification or SSN#:	Gender Identity: <input type="checkbox"/> Male <input type="checkbox"/> Female
Agency:	Status: <input type="checkbox"/> Officer <input type="checkbox"/> Deputy <input type="checkbox"/> Reserve <input type="checkbox"/> Other:	
Date Of Birth (MM/DD/YYYY):	Hire Date (MM/DD/YYYY):	Separation Date (MM/DD/YYYY):

Section 2: Reason For Separation

☐ Resignation ☐ Termination ☐ Retirement ☐ Medical ☐ Deceased ☐ Other: _____

Section 3: This section refers to Certified Peace Officers Only

Under RCW 43.101.135, the employing agency **must** notify CJTC if they are aware of conduct that **may** fall under the definition of "Disqualifying Misconduct." CJTC will determine whether this separation provides ground for revocation under RCW 43.101.105.

Under RCW 43.101.010, "Disqualifying Misconduct" includes:

(8) "Discharged for disqualifying misconduct" means terminated from employment for: (a) Conviction of (i) any crime committed under **color of authority** as a peace officer, (ii) any crime involving **dishonesty or false statement** within the meaning of Evidence Rule 609(a), (iii) the unlawful use or possession of a **controlled substance**, or (iv) any other crime the conviction of which disqualifies a Washington citizen from the **legal right to possess a firearm** under state or federal law; (b) **conduct that would constitute any of the crimes addressed in (a) of this subsection**; or (c) knowingly making materially false statements during disciplinary investigations, where the false statements are the sole basis for the termination.

(9) A peace officer is "discharged for disqualifying misconduct" within the meaning of subsection (8) of this section under the ordinary meaning of the term and when the totality of the circumstances support a finding that the **officer resigned in anticipation of discipline**, whether or not the misconduct was discovered at the time of resignation, and when such discipline, if carried forward, **would more likely than not have led to discharge for disqualifying misconduct** within the meaning of subsection (8) of this section.

Is this agency aware of conduct that may fall under the definition of "Disqualifying Misconduct," as defined above?

☐ Yes ☐ No (If marked YES, please provide the information for the agency investigative contact and the peace officer below)

Agency Investigative Contact:	Contact Phone #:	Agency Email:
Separated Peace Officer's Mailing Address:	Contact Phone #:	Personal Email:

Section 4: This section must be signed by the hiring authority, or designee.

I understand that the CJTC will rely on the information provided in Section 3 for matters pertaining to peace officer certification and I understand that falsifying this required information, by commission or omission, could be grounds for revocation of any certification regulated by the CJTC.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signed this ____ day of _____, 20____, in _____, Washington.

Hiring Authority/Designee's Signature

Hiring Authority/Designee's Printed/Typed Name:	Hiring Authority/Designee's Rank/Title:
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Email – First Contact

I recently received a Notice of Officer Separation for **JOHN DOE** and your agency indicated that the separated peace officer may have engaged in disqualifying misconduct as defined by [RCW 43.101.010 \(8\) and/or \(9\)](#). Your agency listed you as the investigative contact for this separation.

I have a few questions:

- Who is/was the hiring authority for your agency for this separation?
- Is this termination final or can an appeal still be made?
- Is the peace officer appealing this termination?
 - If yes, what is the timeline for appeal?
- Had the officer not resigned/retired, given the totality of circumstances, would it have been more likely than not your agency would have terminated employment?
- Was an internal investigation completed?
 - If yes, by who?
 - Where there sustained findings?
- Is the peace officer facing criminal charges?

If you are not the person I should discuss this separation with, please forward this email to that person and cc me.

Email – Separation Final

As this separation of **JOHN DOE** appears to be final, I am writing to request a copy of all investigative records relating to this separation ([RCW 43.101.135](#)).

- Please include, at a minimum, the records listed below in an electronic format (saved to a thumb drive; I do not have access to a DVD/CD rom). **Please note if there is confidential information that should not be disclosed under your records acts; it is your agencies responsibility to redact that information. If I need access to that information, I can speak with you offline.**
- Full Internal Investigation File
 - Including, but not limited to:
 - Summary
 - Findings
 - Supporting Documents
 - Audio
 - Audio Transcripts
 - Video
- *If applicable:*
 - Grievance(s) filed up to and including Arbitration
 - Any documentation regarding Potential Impeachment Disclosure (PID)
 - Any documentation regarding notice to the “Brady List”
 - Any agreements reference this separation
- *If Arbitration Occurred:*
 - Arbitrator’s Decision
 - Exhibits
 - City and Guild
 - Videos
 - Transcript of proceeding, if available

- Briefing, if available

Within the next 30 days, the requested materials should be provided the required electronic format and either **emailed, mailed, or hand delivered** to the mailing or email address listed below. If you feel you need more time, please let me know. **Reminder: please note if there is confidential information that should not be disclosed under your records acts; it is your agencies responsibility to redact that information. If I need access to that information, I can speak with you offline.**

Mailing Address:

Peace Officer Certification CONFIDENTIAL
WA State Criminal Justice Training Commission
PO Box 40905
Olympia, WA 98504-0905

Email Address:

tjones@cjtc.state.wa.us

Physical Address (do not mail documents to this address):

WA State Criminal Justice Training Commission
Peace Officer Certification
3060 Willamette Drive NE
Lacey, WA 98516

As you may know, we treat these records as confidential and the files provided to the Commission for review are exempt from public disclosure, subpoena or discovery proceedings in any civil action under RCW 43.101.400(1) except as provided by subsection (2) of that section relating to revocation proceedings of the Commission and an investigation conducted by a designated representative of or investigator for the commission. Note however that any hearing on the matter if a hearing is requested by the officer is an open hearing, except for the panel's deliberations. [see RCW 41.101.400(5)]