

MMA Personnel & Labor Relations Committee

JUNE 23, 2023





Agenda

- 1. Overview
- 2. Recertification (I P)
 - 1. Process & Timeline
 - 2. New Agency Portal
- 3. Exceptions to Certification
- 4. Disciplinary Process

1. Overview - POST Mandate



- Develop certification standards for officers and agencies in collaboration with Municipal Police Training Committee (MPTC)
- Certify officers, school resource officers, and law enforcement agencies
- Power to suspend, condition, limit certification, order retraining, or decertify an officer
- Receive complaints, investigate and adjudicate
- Maintain a public database with certain disciplinary records and certification status of officers

1. Overview - Initial Certification



- POST certification is required for appointment or employment as an officer by a law enforcement agency
- Certification is required to conduct police duties & functions (powers of arrest, warrantless searches, etc.)
- With the passage of Police Reform, active officers were certified by statute with staggered expiration dates (according to their last name)
- Certification is good for three years

2. Recertification (I – P) Process & Timeline New LEA Portal

Recertification Process & Timelines



- All officers employed as police officers in Massachusetts on July 1, 2021 were certified and scheduled for recertification in three groups based on the officer's last name
- Officers with last names A-H were recertified as of July 1, 2022
- Officers with last names I-P will be recertified by July 1, 2023
- Officers with last names Q-Z will be recertified by July 1, 2024

Recertification (I - P)



- Certification of officers I-P expires June 30, 2023
- Process governed by 555 CMR 7.00:
 - Agencies complete two documents (Part 1 and Part 2); verify compliance with certain requirements
 - Chief or designee conducts oral interview with the help of Questionnaire (Part 2). Attest to good moral character of officer
- Updated certain questions in Part 1
- Part 2 Questionnaire remains the same (6 questions)
- Attestations for Chiefs collected before all others



Recertification Timeline

April 15 Documents and worksheet available on

website

May 1 Chiefs attestations due

May, June Office hours every week

May 22 Portal open

June 30 Deadline for submission *

July 31 POST begins sending notifications

^{*} Agencies can request 30-day extension

Recertification Process



On May 22, 2023 POST Deployed New Agency Portal

- Information is entered directly into portal
- Officers to be recertified will be prepopulated in the portal
 - If someone is not in the portal → Contact POST (postccertification@mass.gov)
- Agencies verify officer information (12 fields)
- Agencies enter Part 1 questions (19 questions)
- New platform will have future functionality for submitting complaints and other reports due to POST

Recertification Process

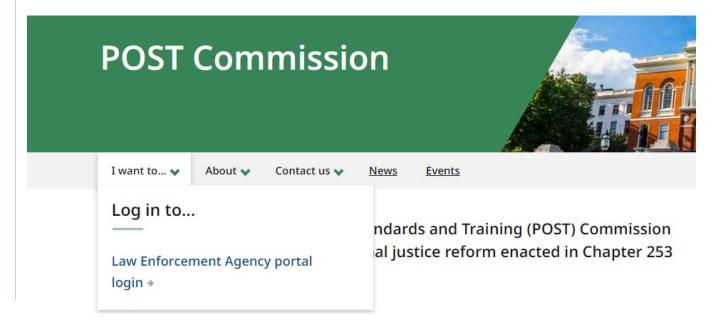


LEA Portal - Notices

- Last year POST sent notifications to agencies & asked agencies to distribute
- This year POST is sending notices <u>directly to officers' agency e-mail</u>
- Agencies can access reports in the portal
- Include personal e-mail and/or physical address and notification preferences
 - One personal address will be required
- Neither personal e-mail nor physical addresses are public records
- POST will verify compliance with training requirements with MPTC before sending recertification notifications



Logging in from the Website (after May 22)





In-Service Training

- POST will ask if officer has completed or is expected to complete FY23 in-service training before July 1, 2023
- Agencies owe report to MPTC before September 30
- POST/MPTC will audit records after September 30
- If non-compliance, officers face administrative suspension

Exceptions to Certification

- Conditional Certification
- Declining to Certify (Not Certified)
- Possible Actions Following a Certification Decision

Conditional Certification



Officers deficient in one or more of the following requirements have an opportunity to complete them within a set timeframe

- Work requirements for Bridge Academy (2,400 hrs. by Jan 1, 2027)
- In-Service Training (September 30)
- Current CPR or First Aid Certificate (September 30)
- Completion of High School Education or Equivalent (July 1, 2024)

Officers on approved or extended leave must complete their certification requirements no later than 90 days after the date of their return to active service.

Declining to Grant Full Certification



If an officer does not meet the certification requirements and/or the time to complete the requirements expires:

- Most common instance Chief declining to attest to good moral character of officer
- Division of Certification reviews and may decline to grant certification and designate the officer as "Not Certified"
- A decision that does not provide for full recertification is different from decertification
- If the decision is other than full recertification, officer can seek review by the Executive Director

Declining to Grant Full Certification



Possible Action Following Decision

- Officer may submit a written petition to the Executive Director requesting review of the decision
- Executive Director Review: Within 21 days
- Executive Director may ask for additional information, including a meeting with the applicant and issue a written decision on the petition within a reasonable time
- Opportunity for Hearing: An officer may request a hearing before the commission concerning an application for recertification

Declining to Grant Full Certification



Possible Action Following Decision

- Vacating of prior decision to recertify:
 - If a decision to recertify is vacated, the officer shall be deemed to have been certified during the period between the decision to recertify and the decision to vacate
- Reapplication by Officer:
 - Where an officer has received a decision denying a full recertification, the commission may attach limitations, conditions, or restrictions on the officer's ability to reapply

- Information due to POST
- Actions following a complaint
- Disciplinary Records



Information due to POST

- Law Enforcement Agencies are required to submit to POST credible complaints alleging misconduct by an officer within 2 business days
- Complaints can originate from a member of the public (external complaint), from personnel at the agency (internal complaint or incident), or any other source
- Other reports due to POST include excessive force, officer-involved shooting, or events that resulted in serious bodily injury or death
- Process governed by 555 CMR 1.00
- Additional guidance is available at POST website



All complaints that fall in the following three categories must be submitted to POST:

- 1. <u>Complaints alleging bias</u> based on race, ethnicity, sex, gender identity, sexual orientation, age, religion, mental or physical disability, immigration status, or socioeconomic or professional level
- 2. <u>Complaints regarding use of force (excessive, prohibited, or deadly force)</u>
- 3. Actions that resulted in serious <u>bodily injury or death</u> (including Officer-Involved Shootings or "OIS")

Complaints that allege "Unprofessionalism" are also due to POST, except for minor matters like discourtesy, grooming violations, tardiness, inattention to detail, etc.



Actions Following a Complaint

- LEA's are required to investigate the complaint and submit the results of that Internal Affairs (IA) to POST
 - A description of the Investigation (IA Report) and findings (Unfounded, Not Sustained, Sustained, Exonerated)
 - Any discipline imposed
 - IA Report and Disposition (discipline) may be different submissions
- Head of Agency may recommend POST take certain action (up to an including decertification)
- In the event of appeal or reversal => submit update to POST

Suspensions



Administrative Suspensions

The Commission administratively suspends the certification of an officer who fails to complete in-service training within 90 days of the imposed deadline

- Exceptions for injury or physical disability, leave of absence or documented hardship
- Certification is reinstated once the officer completes the training requirement
- An officer may also face administrative suspension for failure to submit certain reports due to POST

Suspensions



Mandatory Suspensions

- The Commission shall immediately suspend the certification of an officer who is arrested, charged or indicted for a felony
- Officer may request a hearing before a single Commissioner prior to the mandatory suspension
- If charges are dropped, or reduced officer may request lifting that suspension

Suspensions



Other Commission Imposed Suspensions

- The Commission <u>may</u> suspend an officer who is charged, indicted or convicted of a <u>misdemeanor</u>
- If the commission determines by a preponderance of the evidence that the crime affects the fitness of the officer to serve as a law enforcement officer

Preliminary Inquiries



Division of standards initiates a Preliminary Inquiry (PI) if:

- Complaint, report or other credible evidence that officer was involved an officerinvolved injury or death;
- Committed a felony or misdemeanor, (whether the officer has been arrested, indicted, charged or convicted);
- Engaged in prohibited conduct (chapter 6E section 10);
- Commission receives an affirmative recommendation by the head of an appointing agency for disciplinary action by the Commission, including retraining or suspension or revocation of the officer's certification.

Preliminary Inquiries (PI)



- Preliminary Inquiry proceedings are confidential
- Division of Standards request approval from Commission to initiate PI in Executive Session
- Officer, Head of Agency, and Head of Bargaining Unit are notified of these proceedings (within 30 days)
- Commission may suspend certification of an officer as part of a Preliminary Inquiry
- After PI Report, Commission may vote to initiate adjudicatory proceedings (Hearings)

Division of Standards Preliminary Inquiry



Adjudicatory Hearings

- Commission may conduct hearings to issue findings, impart discipline, order retraining, condition, limit or revoke the certification of an officer
- POST will not initiate revocation proceedings until an LEA has issued a final disposition or a year has passed (whichever is sooner)
- Hearings are presumed to be public, but part or all the hearing may be closed at the discretion of the chair
- After hearing, Commission will consider all evidence submitted as part of the record, deliberate and issue a written determination



Disciplinary Records

- POST will soon publish historical disciplinary records
- Records will include sustained complaints, and exclude un-sustained complaints
- Thus far POST has declined to produce records (including un-sustained complaints) to requestors
- POST takes the position of not advising LEA's about responses to PRR
- POST can make available its responses to Public Records Requests



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