

1034. DECERTIFICATION, DISCIPLINARY ACTION, AND HEARINGS

(1) DECERTIFICATION

- (a) Certificates remain the property of the Commission and the Commission shall have the power to revoke or recall any certificate, including eligibility for certification, and ability to act as a law enforcement officer, as provided by law.
- (b) The Commission may revoke the certification, eligibility for certification, or ability to act as a law enforcement officer of any law enforcement officer after written notice and a hearing for any of the following reasons:
 - (i) The law enforcement officer was separated from employment due to a failure to meet the minimum qualifications for employment or appointment as a law enforcement officer or has ceased to meet minimum qualifications for employment or appointment as established by CLEST Rules,
 - (ii) The law enforcement officer left employment due to conduct or involvement in any act which is punishable by law,
 - (iii) The law enforcement officer was dismissed from employment for a violation of the Rules or Regulations of the law enforcement agency for which they were employed,
 - (iv) The law enforcement officer resigned or retired while the subject of a pending internal investigation,
 - (v) The law enforcement officer falsified any information required to obtain certification,
 - (vi) The certification was issued in error or mistake by the Division,
 - (vii) Committed a violation of the Law Enforcement Code of Ethics,
 - (viii) The law enforcement officer was dismissed from employment for excessive use of force, or
 - (ix) The law enforcement officer was dismissed from employment for dishonesty or untruthfulness.
- (c) The Commission shall notify a law enforcement officer in writing if the Commission believes there is a reasonable basis for revoking the law enforcement officer's certification, eligibility for certification, or ability to

act as a law enforcement officer. If the law enforcement officer wishes to contest the decertification, the officer may request a hearing within twenty (20) days of the date of the notice.

- (d) An individual who has been decertified by the Commission or by another state or who has surrendered a law enforcement certification in Arkansas or in another state is not eligible for certification in Arkansas until the Commission, at its discretion and by majority vote, is satisfied that the individual is eligible for re-certification.
- (e) Recommendations to the Commission from a department head or other authorized entity requesting decertification of a law enforcement officer shall be supported by a letter of justification or other documentation as required by the Commission.

(2) DISCIPLINARY ACTION

If a law enforcement officer is determined by the Director or Deputy Director to be in noncompliance with minimum standards, the Director or Deputy Director will notify the employing law enforcement agency in writing. The Director or Deputy Director shall give the individual and the employing law enforcement agency a reasonable amount of time to remedy the deficiency. If, at the end of the period allowed for the law enforcement officer to remedy the deficiency, including any extensions thereof, if the law enforcement officer remains in noncompliance, the Director may:

- (a) Temporarily suspend the law enforcement officer's ability to serve as a law enforcement officer.
 - i. If the Director issues a temporary suspension, the Director will promptly notify the law enforcement officer and the officer's employing law enforcement agency.
 - ii. The Director may lift the suspension upon the receipt of evidence showing that the noncompliance has been corrected, or the Director may set the matter for a hearing before the Commission; or
- (b) Provide written notice of the violation to the law enforcement agency, which shall respond within thirty (30) days of receipt of the notice.

- i. If the law enforcement agency fails to respond within the required thirty (30) days, the Commission may issue a default order and administrative penalty against the law enforcement agency.
- ii. In its response to the notice of violation, the law enforcement agency may request a hearing before the Commission to contest the allegations contained within the notice.

(c) Commence an action consisting of both (2)(a) and (2)(b).

(3) ADMINISTRATIVE PENALTIES

(a) After notice and a hearing, or as otherwise provided by law, the Commission may assess an administrative penalty against a law enforcement agency as follows;

- i. For appointing a person who does not meet minimum standards as a law enforcement officer, an administrative penalty or no more than one thousand dollars (\$1,000); and
- ii. For failing to timely submit any required appointment or separation documents, an administrative penalty or no more than three hundred fifty dollars (\$350).

(b) When determining the amount of an administrative penalty assessed against an agency, the Commission shall consider:

- i. The seriousness of the violation;
- ii. The law enforcement agency's history of violations;
- iii. The amount the Commission believes is necessary to deter future similar violations;
- iv. Efforts made by the law enforcement agency to correct the violation; including the immediacy and degree of corrective action; and
- v. Any other consideration that the Commission believes important.

(c) The administrative penalties may be assessed on a per-day basis, with each day considered a separate violation.

(4) HEARINGS

- (a) All hearings before the Commission shall be conducted in accordance with the Administrative Procedures Act, Ark. Code Ann. §§ 25-15-201 et seq.
- (b) Should any portion of this rule be in conflict with any provisions of the State Administrative Procedures Act, the State Administrative Procedures Act will be followed in every case.

(5) SUBPOENAS

- (a) The Chairman or Director shall sign a subpoena.
- (b) A party seeking a subpoena shall have the burden of preparing the subpoena for signature, obtaining service of process, and tendering appropriate mileage fees and witness fees calculated in accordance with Rule 45 of the Arkansas Rules of Civil Procedure.