2015-26

State of California
Office of Administrative Law

In re: Commission on Peace Officer Standards and Training	NOTICE OF APPROVAL OF REGULATORY ACTION
Regulatory Action:	Government Code Section 11349.3
Title 11, California Code of Regulations	OAL Matter Number: 2016-0112-05
Adopt sections: Amend sections: 1951, 1953, 1954, 1955 Repeal sections:	OAL Matter Type: Regular (S)

The Commission on Peace Officer Standards and Training proposed this action to amend sections 1951, 1953, 1954, and 1955 of title 11 of the California Code of Regulations, which pertain to peace officer selection standards. The proposed amendments provide clear and consistent requirements for the sharing of background information between a background investigator and a screening psychologist, outline the requirements for the reporting of continuing professional education courses by peace officer screening psychologists, clarify that only candidates found medically and psychologically suitable can be appointed as peace officers, and update three incorporated by reference documents related to testing and assessments of peace officer candidates.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 4/1/2016.

Date: February 24, 2016

Richard L. Smith

Richard L. Smith
Senior Attorney

For: DEBRA M. CORNEZ
Director

Original: Robert Stresak
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TEXT OF PROPOSED REGULATORY ACTION
Peace Officer Selection Standards
Regulations 1951, 1953, 1954, and 1955

1951. Peace Officer Reading and Writing Ability Assessment

[1951(a)...through 1951(a)(3)...continued]

(b) A department that uses the POST Entry-Level Law Enforcement Test Battery must have a current Test Use and Security Agreement (~~03/2010~~ Rev 08/2015), herein incorporated by reference, on file with POST.

Note: Authority cited: Sections 13503, 13506 and 13510, Penal Code.
Reference: Section 13510, Penal Code.

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§ 1953. Peace Officer Background Investigation

[1953(a)...through 1953(b)...continued]

(c) **Personal History Statements**

Every peace officer candidate shall complete, sign, and date a personal history statement at the onset of the background investigation. A personal history statement can be either the *Personal History Statement - Peace Officer*, POST 2-251 (Rev 02/201~~2~~3) or an alternative personal history statement. An alternative personal history statement shall include inquiries related to the following areas of investigation: personal identifying information, relatives and references contact information, education history, residence history, experience and employment history, military history, financial history, legal history, driving history, and other topics related to moral character.

[1953(d)...through 1953(g)(2)...continued]

(3) **Information Access**

The ~~information~~ narrative report and any other relevant background information shall be shared with the psychological evaluator [Regulation 1955(e)(3)] . This information shall also be shared with others involved in the hiring process, such as ~~the~~ screening physicians ~~and psychologists~~, if it is relevant to their respective evaluations.

~~There is a duty and/or legal obligation to furnish t~~This information must be furnished to those conducting background investigations of peace officer candidates on behalf of other law enforcement departments except as specifically provided by statute (Government Code section 1031.1, Government Code section 6250 et seq, Labor Code section 1050, Labor Code section 1054, O'Shea v. General Telephone Co. (1987) 193 Cal. App 3d 1040). This information shall only be utilized for investigative leads and the information shall be independently verified by the prospective department to determine the suitability of the peace officer candidate.

Note: Authority cited: Sections 1030, 1031, 1031.2 and 1031.5, Government Code; Section 2267, Vehicle Code; and Sections 13503, 13506 and 13510, Penal Code. Reference: Sections 1029, 1030, 1031, 1031.2, 1031.5 and 12900 et seq., Government Code; Sections 2267 and

12500, Vehicle Code; Sections 13510 and 29805, Penal Code; and Title 18 Section 922(d)(9), US Code.

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§ 1954. Peace Officer Medical Evaluation

[1954(a)...through 1954(b) ...continued]

(c) **Medical Screening Procedures and Evaluation Criteria**

The medical screening procedures and evaluation criteria used in the conduct of the medical evaluation shall be based on the peace officer duties, powers, demands, and working conditions as defined by the department. This information shall be provided to the physician, along with any other information (e.g., risk management considerations) that will allow the physician to make a medical suitability determination. The *POST Medical Screening Manual for California Law Enforcement (~~2004~~2015)* provides medical examination and evaluation protocols that are based on patrol officer job demands and working conditions. These protocols may be adopted or adapted for use by the department, if and as appropriate. However, the use of the manual is discretionary.

[1954(d) through 1954(d)(1) ...continued]

(2) Medical History Statement. Prior to the medical evaluation, every peace officer candidate shall complete, sign and date a medical history statement. The *POST Medical History Statement - Peace Officer*, POST 2-252 (~~12/2011~~Rev 02/2013) can be used for this purpose, or an alternative form that includes inquiries about past and current medical conditions and procedures, physical symptoms, limitations, restrictions, and the use of medications and drugs.

[1954(d)(3)...through 1954(e)(1)(C)...continued]

(D) A statement, signed by the physician, affirming that the candidate was evaluated in accordance with Commission Regulation 1954. The statement shall include a determination of the candidate's medical suitability for exercising the powers of a peace officer. Prior to appointment as a peace officer, the candidate must be determined to be medically suitable.

[1954(e)(2)...through 1954(e)(3)...continued]

(4) The POST Medical Examination Report - Peace Officer, POST 2-253 (~~06/09~~Rev 12/2012) is available for use in reporting this information; however, its use is discretionary.

[1954(e)(5)...continued]

(f) **Second Opinions**

(1) A candidate who is found medically unsuitable has the right to submit an independent evaluation for consideration before a final determination of disqualification is made [2 California Code of Regulations section 11071(b)(2)].

(2) When a candidate notifies the department that s/he is seeking an independent opinion, the department shall make available the peace officer duties, powers, demands, and working conditions and the medical screening requirements specified in Commission Regulation 1954. Other information, such as specific procedures or findings from the initial evaluation, may be shared with the second-opinion evaluator at the discretion of the department. The means for resolving discrepancies in evaluations is at the discretion of the department, consistent with local personnel policies and/or rules.

Note: Authority cited: Sections 1031, Government Code; Sections 13503, 13506 and 13510, Penal Code. Reference: Section 56.11, Civil Code; Section 1031, Government Code; and Section 13510, Penal Code.

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§ 1955. Peace Officer Psychological Evaluation

(a) **Government Code Mandate/Evaluator Requirements**

[1955(a)...through 1955(a)(1)(B)...continued]

(2) The psychological evaluator (hereinafter referred to as "evaluator") shall be competent in the conduct of preemployment psychological screening of peace officers. The required areas of competence, as defined in the POST Peace Officer Psychological Evaluator Competencies ~~(2013)~~ (Competencies), are herein incorporated by reference. The Competencies are contained and defined in Chapter 3 of the *POST Peace Officer Psychological Screening Manual (2014).*

[1955(a)(3)...through 1955(b)(3)(A)...continued]

(B) Prior to September 1, 2014, all evaluators must have completed a minimum of six (6) hours of CPE. The POST-approved CPE must have been completed between May 1, 2012 and August 30, 2014.

After September 1, 2014, the 12-hour two-year CPE requirement ~~will begin~~ commenced. CPE hours ~~will be~~were prorated at .5 hours per month, based on the evaluator's license renewal cycle. For example, if the evaluator's license renewal date ~~is~~was February 28, 2015, by that date the evaluator must have completed .5 hours of CPE for each of the six months that elapsed since September 1, 2014 (i.e., three hours). Thereafter, the evaluator must meet the regular 12 hours of CPE for every two-year cycle per Regulation 1955(a)(3).

[1955(b)(3)(C)...continued]

(4) Verification of Course Completion

To verify compliance with Regulation 1955(a)(3), the evaluator must submit a psychological evaluator ~~approval request~~ profile request to POST via the electronic CPE Tracking System and provide verification of course completion. ~~The request for approval may be submitted any time during the two-year cycle.~~

~~Requests must include the following information:~~

(A) Evaluator Information

The profile request must include the evaluator's [name and contact information; license # and renewal date; and additional information (curriculum vitae, professional website URL), if available]~~, and~~.

(B) Course Information ~~(course title, date completed, and CPE hours)~~

Once the profile is approved, the evaluator can request approval of CPE course completion through the on-line CPE Tracking System. The request must be accompanied by official documentation of course completion, such as completion certificate, roster, and/or other official education or training records.

A list of evaluators and their contact information is available on the POST website (www.post.ca.gov).

(c) **Timing of the Psychological Evaluation**

[1955(c)...continued]

(d) **Psychological Screening Procedures and Evaluation Criteria**

[1955(d)(1)...continued]

(2) Every peace officer candidate shall be evaluated, at a minimum, against job-related psychological constructs herein incorporated by reference ~~contained and defined~~ in the POST Peace Officer Psychological Screening Dimensions (Dimensions)~~(2005)~~: Social Competence, Teamwork, Adaptability/Flexibility, Conscientiousness/Dependability, Impulse Control, Integrity/Ethics, Emotional Regulation/Stress Tolerance, Decision Making/Judgment, Assertiveness/Persuasiveness, and Avoiding Substance Abuse and Other Risk-Taking Behavior. The Dimensions are contained and defined in Chapter 4 of the *POST Peace Officer Psychological Screening Manual (2014).*

(3) The *POST Peace Officer Psychological Screening Manual (2014)* provides guidance in the evaluation of peace officer candidates. The use of this manual is discretionary with the exception of the required Psychological Evaluator Competencies and the Psychological Screening Dimensions outlined in Regulations 1955(a)(2) and 1955(d)(2), respectively.

(e) **Required Sources of Information for the Psychological Evaluation**

[1955(e)(1)...through 1955(e)(2)...continued]

(3) Personal History Information

Personal history information includes the candidate's relevant work, life, and developmental history based on information collected during the background investigation [Regulation 1953(g)(3)]. This information may be augmented by responses on a personal history questionnaire collected as part of the psychological evaluation.

[1955(e)(4)...through 1955(f)(1)...continued]

(2) The evaluator shall submit a psychological evaluation report to the department that shall include the following information:

(A) The evaluator's contact information and professional license number,

(B) The name of the candidate,

(C) The date the evaluation was completed, and

(D) A statement, signed by the evaluator, affirming that the candidate was evaluated in accordance with Commission Regulation 1955. The statement shall include a determination of the candidate's psychological suitability for exercising the powers of a peace officer. Prior to appointment as a peace officer, the candidate must be determined to be psychologically suitable.

[1955(f)(3)...through 1955(f)(5)...continued]

(g) **Second Opinions**

(1) A candidate who is found psychologically unsuitable has the right to submit an independent evaluation for consideration before a final determination of disqualification is made [2 California Code of Regulations section 11071(b)(2)]. Consideration should include determining whether the second opinion evaluator meets the requirements set forth in Government Code section 1031(f) and Regulation 1955(b).

(2) When a candidate notifies the department that s/he is seeking an independent opinion, the department shall make available the peace officer duties, powers, demands, and working conditions and the requirements specified in Commission Regulation 1955. Other information, such as specific procedures or findings from the initial evaluation, may be shared with the second-opinion evaluator at the discretion of the department. The means for resolving discrepancies in evaluations is at the discretion of the department, consistent with local personnel policies and/or rules.

Note: Authority cited: Section 1031, Government Code; Sections 13503, 13506 and 13510, Penal Code. Reference: Section 56.11, Civil Code; Section 1031, Government Code; and Section 13510, Penal Code.