

## Notice of Availability of 15-Day Language

### Modifications to Text of Proposed Regulations for *Public Safety Dispatcher Selection Standards*

December 29, 2008

Pursuant to the requirements of Government Code section 11346.8(c), and section 44 of Title 1 of the California Code of Regulations, the Commission on Peace Officer Standards and Training (POST) is providing notice of changes made to the proposed regulation text for public safety dispatcher selection standards (Regulation Sections 9056-9060), which was originally published on February 22, 2008. The original notice documents are available at <http://www.post.ca.gov/RegulationNotices/RegulationNotices.asp>.

These proposed regulations were the subject of a public hearing scheduled in conjunction with the April 2008 Commission meeting. Public comment was received, and the Commission made a decision to defer the approval of the proposed regulations until additional stakeholders could be convened to discuss selection standards for reinstated peace officers. Since the proposed public safety dispatcher selection standards are being modified to be consistent with the peace officer selection standards, modifications have been made for that purpose. Stakeholder meetings were held and Regulation 9056 was modified to be consistent with Regulation 9050 (peace officer selection standards). Further modifications to Regulations 9057, 9059, and 9060 are sufficiently related to the initial 45-day notice and the public hearing.

The changes are made as a direct result of aligning the public safety dispatcher selection standards with the peace officer selection standards as appropriate. The modifications are as follows:

*Regulation 9056(b)* – This section has been modified to clarify that all public safety dispatcher candidates are subject to these regulations. Removes reference to reappointed dispatchers – dispatchers who voluntarily leave, then return to the agency – as there was confusion between reappointed individuals and individuals who are reinstated to their positions.

*Regulation 9056(c)* – This section has been modified to provide clarity as to who is exempt from these selection requirements. In particular, and pursuant to input from stakeholders, language regarding reinstated dispatchers – dispatchers who involuntarily leave a department, then are ordered to return – has been added to maintain consistency with the peace officer selection standards [Regulation 9050(c)]. Language further modified for consistency and readability.

*Regulation 9056(d)* – This section removes the parenthetical reference to specific examples of additional assessments, out of concern that the examples provided would be misinterpreted as exhaustive.

*Regulation 9059(c)* – This section adds the date for the referenced form.

*Regulation 9059(d)* – This section has been modified to reference EEOC enforcement guidance on the topic addressed in this regulation.

*Regulation 9059(f)* – This section has been modified as some language is unnecessarily redundant. Dispatchers cannot be reappointed if they haven't separated from the agency. Additional language has been modified for clarification purposes.

*Regulation 9060(a), (b), (d) and (e)* – These sections have been modified for clarity and readability. It also adds reference to a newly developed form available for agency use. Language is consistent with that of the peace officer selection standards. Additionally, the conduct of the medical evaluation by a licensed health care professional, under the supervision of a licensed physician, is expressly sanctioned, as there is no statute comparable to Government Code 1031(f) for peace officers that mandates that the evaluation must be conducted by a licensed physician.

POST will accept written comments regarding the proposed changes that are the topic of this 15-day notice between December 29, 2008 and January 15, 2009 at 5:00 p.m., inclusive. Submit all written comments to Melani Singley via FAX at (916) 227-0476, by email to [melani.singley@post.ca.gov](mailto:melani.singley@post.ca.gov), or via U.S. mail to:

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Shelley Spilberg is the back-up contact for this notice, as well as the person to receive inquiries concerning the substance of the proposed modifications. Shelley is available by email at [sspilberg@post.ca.gov](mailto:sspilberg@post.ca.gov) or by telephone at (916) 227-4824.

All written comments received by **5:00 p.m. on January 15, 2009**, which pertain to the indicated changes will be reviewed and responded to by POST as part of the compilation of the rulemaking file. Please limit your comments to the modifications of the text.

Attachment

Commission on Peace Officer Standards and Training

TITLE 11, CALIFORNIA CODE OF REGULATIONS  
ADOPT SECTIONS 9056-9060 REGARDING PUBLIC SAFETY DISPATCHER SELECTION STANDARDS

TEXT

Text proposed to be added for the 45-day comment period is displayed in underline type.

Text proposed to be added for the 15-day comment period is displayed in double underline type.

Text proposed to be deleted for the 15-day comment period is displayed in ~~double underline~~ type.

**Regulation 9056 Public Safety Dispatcher Selection Requirements**

**§ 9056 (a)** The purpose of these regulations is to set forth the minimum public safety dispatcher selection standards as authorized by [California Penal Code Section 13510\(c\)](#). Public safety dispatcher training requirements are addressed separately in [Commission Regulation 1018\(d\)](#).

(1) Every department and/or independent communications agency (hereinafter referred to as “department”) that participates in the POST Public Safety Dispatcher Program shall ensure that every “*public safety dispatcher candidate*” as defined in subsection 9056(b) satisfies all minimum selection requirements specified in the following regulations:

- [Verbal, Reasoning, Memory, and Perceptual Abilities Assessment \(Regulation 9057\)](#)
- [Oral Communication Assessment \(Regulation 9058\)](#)
- [Background Investigation \(Regulation 9059\)](#)
- [Medical Evaluation \(Regulation 9060\)](#)

(2) All requirements specified in these regulations shall be satisfied **prior to the date of appointment** as a public safety dispatcher.

**§ 9056 (b) Public Safety Dispatcher Candidate Definition**

For purposes of these regulations, a “*public safety dispatcher candidate*” is any individual who applies for a full-time or part-time position that involves receiving emergency calls for law enforcement service and/or dispatching law enforcement personnel. This includes any individual who:

- ~~(1) Applies for a public safety dispatcher position with a POST-participating department regardless of the individual’s prior public safety dispatcher experience, or~~
- ~~(2) Is being reappointed as a public safety dispatcher after a separation from the same POST participating department. A separation occurs upon the department’s submittal to POST of a Notice of Appointment/Termination (NOAT) indicating that the individual has been terminated; conversely, a reappointment occurs upon the department’s submittal to POST of an NOAT indicating a new appointment.~~
- ~~(3) Applies for a public safety dispatcher position with either at that department or a different POST participating department within the same city, county, state or district.~~

**§ 9056 (c) Exceptions**

For purposes of these regulations, individuals described in this section are not considered “public safety dispatcher candidates” and are therefore exempted from Regulations 9057-9060.

- (1) The department has sole responsibility for determining what if any assessments are necessary ~~for~~ for a public safety dispatcher who is employed by an ~~agency~~ department that, through reorganization, is ~~absorbed~~ merged with another ~~agency~~ department within the same city, county, state or district, if documentation is available for inspection ~~that verifies~~ that verifying that the ~~candidate~~ dispatcher was hired in accordance with the POST requirements in effect at the time of hire.
- (2) For a public safety dispatcher who has been mandatorily reinstated to the department, the department shall:

A. Report the reinstatement to POST through the submittal of a "Notice of Appointment/Termination" form 2-114, indicating a correction to record, along with a copy of the official reinstatement documentation [Commission Regulation 9040(b)(2)]:

B. Resubmit the dispatcher's fingerprints to the California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) to obtain criminal record results. Fingerprints do not need to be resubmitted if the dispatcher was never removed from the department's personnel files of the DOJ or FBI.

(3) A ~~Peace officer~~ who ~~is~~ assigned to dispatcher duties ~~do not need to meet these selection requirements.~~

#### **§ 9056 (d) Adoption of Additional Requirements and/or Higher Standards**

The requirements described herein serve as minimum selection requirements. Per Penal Code § 13510(d), the adoption of more rigorous requirements, higher standards, additional assessments (e.g. ~~psychological examination, detection of deception examination~~), or more in-depth evaluations than those stated in these regulations is at the discretion of the employing department.

#### **Regulation 9057 Public Safety Dispatcher Verbal, Reasoning, Memory, and Perceptual Abilities Assessment**

**§ 9057 (a)** Every public safety dispatcher candidate shall demonstrate verbal, reasoning, memory, and perceptual abilities at levels necessary to perform the job. Satisfactory completion of this requirement may occur at any time prior to appointment, and shall be demonstrated by one of the following:

(1) Completion of the POST Entry-Level Dispatcher Selection Test Battery or alternative job-related tests of these abilities, administered by either the hiring department or another entity, with a score deemed acceptable by the hiring department. All tests must include assessments of the following:

(A) **Verbal.** This ability includes written and oral comprehension (the ability to read passages and listen to orally-imparted information and retrieve facts, draw conclusions, and derive meaning); and written expression (the ability to use language to convey information clearly in writing).

(B) **Reasoning.** This ability includes at least one of the following:

1. **Deductive reasoning** - the ability to apply general rules to specific problems to attain logical answers, or

2. **Information ordering** - the ability to correctly follow a given rule or set of rules to arrange things or actions in a certain order.

(C) **Memory.** This ability includes the capacity to store and retrieve facts, details, and other information.

(D) **Perceptual.** This ability includes speed and accuracy (the ability to quickly and accurately compare letters and numbers presented orally and in written form); and time sharing (the ability to shift back and forth between two or more sources of information, both written and orally-imparted, in performing a task or set of tasks).

(2) Proof of possession of a valid California POST Public Safety Dispatcher Basic Certificate.

(3) Proof of successful completion of the POST-certified Public Safety Dispatcher Basic Course (80 hours minimum) and completion of probation as a public safety dispatcher during previous employment.

§ 9057 (b) A department that uses the POST Entry-Level Dispatcher Selection Test Battery must have a current Test Use and Security Agreement, herein incorporated by reference, on file with POST.

### **Regulation 9058 Public Safety Dispatcher Oral Communication Assessment**

§ 9058 (a) Every public safety dispatcher candidate shall participate in an oral interview or other measure of oral communication abilities to determine suitability for public safety dispatcher service. The oral communication assessment shall be made prior to a conditional offer of employment (COE).

### **Regulation 9059 Public Safety Dispatcher Background Investigation**

#### **§ 9059 (a) Requirement**

Every public safety dispatcher candidate shall be the subject of a thorough background investigation in order to verify the absence of past behavior indicative of unsuitability to perform public safety dispatcher duties.

#### **§ 9059 (b) Background Investigation Evaluation Criteria**

The POST document<sup>a</sup>, [Background Investigation Manual: Guidelines for the Investigator \(2006\)](#) provides assistance in conducting background investigations. The use of the manual is discretionary; however, the POST Background Investigation Dimensions described in the manual (i.e., Integrity, Impulse Control/Attention to Safety, Substance Abuse and Other Risk-Taking Behavior, Stress Tolerance, Confronting and Overcoming Problems, Obstacles, and Adversity, Conscientiousness, Interpersonal Skills, Decision-Making and Judgment, Learning Ability, and Communication Skills) shall be considered in the conduct of every public safety dispatcher background investigation.

#### **§ 9059 (c) Personal History Statements**

Every public safety dispatcher candidate shall complete, sign, and date a [POST Personal History Statement – Public Safety Dispatcher, POST 2-255 \(02/06\)](#) or an alternative form at the beginning the background investigation. If using an alternative personal history statement, it 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.

#### **§ 9059 (d) Collection of Background Information: Pre and Post Conditional Offer of Employment ~~(COE)~~**

- (1) **Pre-offer.** Prior to the extension of a conditional offer of employment (“pre-offer”), no part of the background investigation shall be conducted ~~prior to a COE, except as noted in 9059(d)(2) below. At the pre-offer stage, no inquiries shall be made that are~~ deemed medical or otherwise subject to state or federal pre-offer inquiry prohibitions [EEOC’s *ADA Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations*, (1995)], ~~prohibited by the federal Americans with Disabilities Act (ADA) or the California Fair Employment and Housing Act (FEHA). Any such information volunteered by or about the candidate prior to a COE should be forwarded to those conducting the medical evaluation (and/or psychological evaluation, if administered) as, and when, appropriate. Non-medical inquiries and other parts of the background investigation that are not subject to these prohibitions shall be conducted pre-offer, except as noted in 9059(d)(2) below.~~
- (2) **Post-Offe**r. Background information that cannot be legally or practicably obtained prior to a ~~COE~~ conditional offer of employment may be acquired and evaluated after ~~a COE~~ the offer has been extended (“post-offer”), ~~made to determine candidate suitability.~~ At the post-offer stage, background investigators, examining

physicians, and others involved in the hiring decision shall work cooperatively to ensure that each has the information necessary to conduct their respective investigations and/or assessments of the candidate.

**§ 9059 (e) Areas of Investigation**

**(1) Employment Eligibility**

(A) Every public safety dispatcher candidate shall be legally eligible for employment in the United States.

(B) Proof of employment eligibility shall consist of an official government-issued U.S. birth certificate, naturalization documentation, U.S. passport, current permanent resident alien card, or other documentation deemed acceptable by POST. The document shall be an original, a certified copy, or a copy that includes a notation by the investigator that the original or certified copy was reviewed.

**(2) Criminal Record Checks - Local, State, and National**

Every public safety dispatcher candidate shall be the subject of a criminal record search at local, state, and national levels.

(A) **Local searches** shall include inquiries with local law enforcement agencies where the individual has lived, worked, attended school, or frequently visited.

Proof of **local searches** shall be documented by a letter or other written documentation from each agency contacted. If a contacted agency does not provide written documentation, the request for information shall be noted.

(B) A **state search** shall include forwarding the candidate's fingerprints to the California Department of Justice (DOJ) to obtain criminal record results.

Proof of a **state search** shall be documentation issued by the DOJ consisting of an official clearance return. The authorization shall be relevant to the public safety dispatcher position and shall have been generated no more than one year prior to the date of appointment.

(C) A **national search** shall include forwarding the candidate's fingerprints to the Federal Bureau of Investigation (FBI).

Proof of a **national search** shall consist of an official clearance from the FBI. The clearance shall be relevant to the public safety dispatcher position and shall have been generated no more than one year prior to the date of appointment.

**(3) Driving Record Check**

(A) Every public safety dispatcher candidate's driving history, if any, shall be checked to determine the candidate's driving record and adherence to the law.

(B) Proof of the driving history check shall consist of a written driving record history from the Department of Motor Vehicles or other official driving record. The record shall be dated no more than one year prior to the date of appointment.

**(4) Education Verification**

(A) Every public safety dispatcher candidate's educational history shall be investigated to verify the information provided on the Personal History Statement and as a measure of conscientiousness, learning ability, and other aspects of character.

(B) Proof shall consist of an official transcript or other means of verifying educational history deemed acceptable by POST. The document shall be an original, a certified copy, or a copy that includes a notation by the investigator that the original or certified copy was reviewed.

**(5) Employment History Checks**

(A) Every public safety dispatcher candidate shall be the subject of employment history checks through contact with all past and current employers over the period of the past ten years, as listed on the Personal History Statement.

(B) Proof of the employment history check shall be documented by a written account of the information provided and source of that information for each place of employment contacted. All information requests shall be documented.

**(6) Relatives/Personal References Checks**

(A) Every public safety dispatcher candidate shall be the subject of reference checks through contacts and interviews with relatives, including former spouses, and personal references listed on the Personal History Statement. Additional references, provided by the initial contacts, shall also be contacted and interviewed to determine whether the applicant has exhibited behavior incompatible with the position sought. Agencies shall collect and review sufficient information to determine candidate suitability.

(B) Proof of reference checks shall be documented by written information showing that relatives and personal references identified by the candidate were interviewed. Documentation shall include the identity of each individual contacted, the contact's relationship to the candidate, and an account of the information provided by the contact. All requests for information shall be documented.

**(7) Dissolution of Marriage Check**

(A) Every public safety dispatcher candidate who indicates one or more marriage dissolutions on the Personal History Statement shall have his/her court issued dissolution documents and legal separation decrees reviewed as an indication of personal integrity, financial responsibility, and other relevant aspects of candidate suitability.

(B) Proof of the dissolution/separation of marriage check shall be documented by a copy of all final court-issued dissolution documents and legal separation decrees.

**(8) Neighborhood Checks**

(A) Every public safety dispatcher candidate shall be the subject of contacts and interviews with current and, where practicable, previous neighbors to determine whether the candidate has exhibited behavior incompatible with the position sought.

(B) Proof of neighborhood checks shall be documented by written information showing the identity of each neighbor contacted, the neighbor's relationship to the candidate, and an account of the information provided by the individual. All requests for information shall be documented.

**(9) Military History Check**

(A) When applicable, a candidate shall be required to present proof of selective service registration or military service records.

(B) Proof of a military history check shall consist of written verification of selective service registration, except women or any man born between 4/15/1957 and 12/31/1959, or, for any candidate who indicates military history on the Personal History Statement, an official copy of their DD-214 long form or equivalent documentation of foreign military service, if available.

**(10) Credit Records Check**

(A) Every public safety dispatcher candidate shall be the subject of a credit record search with a bona fide credit reporting agency (e.g., Experian, TransUnion, Equifax) to determine the candidate's credit standing with lenders, as an indication of the candidate's dependability and integrity.

(B) Proof of a credit record check shall be documented by an official credit report returned by one of the bona fide credit reporting agencies. The report shall have been created no more than one year prior to the date of appointment.

**§ 9059 (f) Background Investigation Updates**

(1) Eligibility

(A) If a public safety dispatcher was initially investigated in accordance with all current requirements and the results are available for review, a background investigation update, as opposed to a complete new background investigation, may be conducted for either of the following circumstances:

1. The public safety dispatcher candidate is being reappointed ~~after a separation from~~ to the same POST-participating department, or
2. The public safety dispatcher candidate is transferring, without a separation, to a different department; however, the new department is within the same city, county, state or district that maintains a centralized personnel and background investigation support division.

(2) Update Requirements

(A) A new Personal History Statement ~~for alternative form~~ [Regulation 9059(c)] with updated information covering the period from the last Personal History Statement to the current date shall be completed by the public safety dispatcher candidate.

(B) The department shall conduct investigations of all new information reported by the candidate on the new Personal History Statement.

1. For candidates who are being reappointed to the same department per Regulation 9059(f)(1)(A)(1), the new background investigation shall cover the period since the candidate separated from the department.
2. For candidates who are transferring, without a separation, to a different department within the same city, county, state or district per Regulation 9059(f)(1)(A)(2), the new background investigation shall cover the period since the date the previous background investigation was completed.

(C) Any area of investigation for which there is updated information shall be addressed in the updated background investigation. This shall minimally include a new: 1) Local Criminal Record Check, 2) State and National Criminal Check, unless there is written attestation that the candidate was never removed from the department's personnel files ~~or those~~ of the DOJ or FBI, 3) Driving Record Check, and 4) Credit Record Check.

(D) Updated background investigation documentation shall be maintained with the initial background investigation documents.

(E) If the original background investigation was conducted within one year from the date of reappointment, it is not necessary to update criminal record checks, driving record check, or credit check.

#### **§ 9059 (g) Documentation and Reporting**

- (1) **Background Narrative Report.** The background investigator shall summarize the background investigation results in a background narrative report that includes sufficient information for the reviewing authority to extend, as appropriate, a conditional offer of employment. The report, along with all supporting documentation obtained during the course of the background investigation, shall be included in the candidate's background investigation file. The supporting documents shall be originals or true, current and accurate copies as attested to by the background investigator. The background investigation file shall be made available during POST compliance inspections.
- (2) **Retention.** The background narrative report and supporting documentation shall be retained in the individual's background investigation file for as long as the individual remains in the department's employ. Additional record retention requirements are described in [Government Code § 12946](#).
- (3) **Information Access.** The information shall 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 this information to those conducting mandated background investigations of public safety dispatcher candidates on behalf of other public safety dispatcher agencies, except as specifically provided by statute (GC § 6250, LC § 1050, LC § 1054, O'Shea v. General Telephone Co. 193 Cal. App 3d 1040). This information shall only be utilized for investigative leads and the information shall be independently verified by the acquiring department to determine the suitability of the public safety dispatcher candidate.

#### **Regulation 9060 Public Safety Dispatcher Medical Evaluation**

##### **§ 9060 (a) Evaluator Requirements**

Every public safety dispatcher candidate shall be evaluated ~~by a licensed physician~~ to determine if the candidate is free from any physical (i.e., medical) condition that might adversely affect the ability to perform the duties of a public safety dispatcher. ~~The physician evaluation shall act as an agent of the employer and be conducted the evaluation on behalf of and for the benefit of the employing department by a licensed physician or a licensed health care professional under the supervision of a licensed physician.~~

##### **§ 9060 (b) Timing of the Medical Evaluation**

The medical evaluation shall commence only after the department has extended a conditional offer of employment to the public safety dispatcher candidate. The medical evaluation must be completed within one year prior to date of appointment. ~~A candidate reappointed to the same department after a separation must undergo a new medical evaluation, unless the previous evaluation occurred within one year prior to the date of reappointment.~~ A new medical evaluation shall be conducted on public safety dispatcher candidates who are returning to the same department, unless the prior evaluation occurred within one year of the date of reappointment.

##### **§ 9060 (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 public safety dispatcher duties, 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.

#### **§ 9060 (d) Required Sources of Information for the Medical Evaluation**

The department shall ensure that the medical evaluation shall include a review by the screening physician of the following sources of information prior to making a determination about the candidate's medical suitability.

- (1) **Job Information.** Job information shall consist of the public safety dispatcher duties, demands, and working conditions provided by the department per Regulation 9060(c).
- (2) **Medical History Statement.** Prior to the medical evaluation, every public safety dispatcher candidate shall complete, sign and date a medical history questionnaire statement. The POST [Medical History Statement – Public Safety Dispatcher, POST 2-264 \(04/08\)](#) can be used for this purpose, or an alternative form that ~~which~~ includes inquiries about past and current medical conditions and procedures, physical symptoms, limitations, restrictions, and the use of medications and drugs.
- (3) **Medical Records.** Medical records shall be obtained from the candidate's treating physician or other relevant health professional, if ~~clinically indicated warranted and practicable obtainable~~. This information may be provided ~~directly to the screening physician~~ by the candidate, or, with written authorization from the candidate ([California Civil Code § 56.20](#)), may be obtained directly from the health professional.

#### **§ 9060 (e) Medical Evaluation Report**

- (1) ~~The evaluating physician shall submit a~~ A medical evaluation report shall be submitted to the department that ~~shall~~ includes the following information:
  - (A) ~~The evaluating physician's~~ contact information and medical license number.
  - (B) The candidate's name.
  - (C) The date the evaluation was completed, and
  - (D) A statement, signed by the physician, affirming that the candidate was evaluated in accordance with Commission Regulation 9060. The statement shall include a determination of the candidate's medical suitability for performing as a public safety dispatcher.
- (2) The department shall maintain the medical evaluation report in the candidate's background investigation file; the report shall be available to POST during compliance inspections.
- (3) Any additional information reported by the physician to the department shall be limited to that which is necessary and appropriate, such as the candidate's job-relevant functional limitations, reasonable accommodation requirements, and potential risks posed by detected medical conditions. All information deemed medical in nature shall be maintained as a confidential medical record, separate from the background investigation file.
- (4) The POST [Medical Examination Report – Public Safety Dispatcher, POST 2-265 \(04/08\)](#) is available for use in reporting this information; however, its use is discretionary.
- (5) Information from the medical evaluation may be provided to others involved in the hiring process, if it is relevant to their respective determinations of candidate suitability.

**§ 9060 (f) Second Opinions**

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 CCR § 7294.0(d)(2)]. When a candidate notifies the department that s/he is seeking an independent opinion, the department shall make available the public safety dispatcher duties, demands, and working conditions and the medical screening requirements specified in Commission Regulation 9060. 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.

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<sup>a</sup> All POST documents and forms mentioned in these requirements are available on the POST website ([www.post.ca.gov](http://www.post.ca.gov)).