SESSION #4

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DECERTIFICATION PROCESS
PEACE OFFICER STANDARDS
ACCOUNTABILITY ADVISORY
BOARD
POST COMMISSION
ADMINISTRATIVE LAW JUDGE
PUBLICATIONS & ANNUAL
REPORT
Session 1 – Hiring & Standards
Session 2 – Certificates & Proof of Eligibility
Session 3 – Decertification Investigations and Reporting Obligations

www.post.ca.gov/sb-2

Session 4 -
Goals of Presentation

BROAD OVERVIEW OF SB 2, FOCUSED ON THE DECERTIFICATION PROCESS, STANDARDS ACCOUNTABILITY ADVISORY BOARD AND POST COMMISSION

DISPEL MYTHS ABOUT THE ROLE OF POST

ANSWER LINGERING QUESTIONS
Questions

Submit questions via chat

Website FAQs after presentation
## Upvote Questions

Upvote Questions you would like answered

### Upvoted Q&A

You can upvote a question by clicking the thumbs up icon.

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**John Peterson 03:14 PM**

How do I upgrade my plan?

👍 2

**Lisa Robins 03:04 PM**

Can I join a Zoom meeting by phone?

Answer live  Type answer

**Lisa Robins 03:25 PM**

What's the difference between meeting and webinar?
This presentation is intended as a broad overview of the major certification requirements of Senate Bill No. 2 (SB 2). Many details have necessarily been omitted for brevity. Important additional information may not be fully covered during this presentation.

This presentation should not be construed as legal advice. Questions about the specific provisions of SB 2, including the applicability to given circumstances, should be discussed with the advice and assistance of competent legal counsel.
OVERVIEW

Decertification Process

Standards Accountability Advisory Board

POST Commission

Administrative Law Judge

Questions & Answer
OVERVIEW OF DECERTIFICATION PROCESS

- Serious Misconduct Allegation Session 3
- Peace Officer Standards Accountability Division Review Session 3
- Peace Officer Standards Accountability Board Review
- POST Commission Review
- Administrative Law Judge Review
- POST Commission Review
- Decertification
COMPLETED INVESTIGATION

If **no action** will be taken by the Division, the peace officer and the agency will be notified in writing.

If the Division **takes action** based on reasonable grounds for revocation or suspension of peace officer’s certification:

- Notification in writing to agency that employs or employed the involved peace officer.

- Involved peace officer is served with notice of suspension or revocation to include:
  - A statement the investigation has been completed.
  - A statement of determination and reasons.
  - A detailed explanation of the decertification procedure.
  - The peace officer’s right to contest and appeal (Request for Review Form 2-359).
REQUEST FOR REVIEW, POST 2-359 (3/2022)

- Currently pending regulatory approval – out for public comment.

- To be completed/signed by the peace officer.

- The request of review shall be postmarked within 30 days of receiving the written notification of intent to take action by the Division.
If a request for review is not received, the peace officer’s certification shall be revoked, consistent with the Division’s determination, without further proceedings.

Officer & Agency Notification

Publications
NDI, POST Website, Annual Report
WITHIN 30 DAYS OF PEACE OFFICER RECEIVING NOTIFICATION...

If a request for review is received...

• The case shall be scheduled for hearing before Standards Accountability Advisory Board (Board).
OVERVIEW OF DECERTIFICATION PROCESS

- Serious Misconduct Allegation Session 3
- Division Review Session 3
- Board Review
- Commission Review
- ALJ Review
- Commission Review
- Decertification
THE BOARD – 9 MEMBERS

- Command-level officer, appointed by the Governor
- Management-level officer with Internal Affairs experience, appointed by the Governor
- Non-profit or academic institutions on issues related to police accountability, one appointed by the Governor, one by Speaker of Assembly*
- Non-profit/academic issues related to police accountability, one appointed by the Governor, one by Senate Rules*
- Subjects of wrongful use of force, or surviving family, appointed by Governor*
- Attorney with experience involving oversight of peace officers, appointed by the Governor*

*Must not be prior law enforcement
All members of the board shall complete the decertification training course, as developed by POST.

Included in course as required by law:

- Decertification Process
- Internal Investigations
- Evidentiary Standards
- Use of Force Standards and Training
- Local Disciplinary Processes
BOARD RESPONSIBILITIES

• Review findings of investigations presented by the Division and make **recommendations** to the Commission on what actions should be taken on certification.

• If such grounds exist, the Board, upon majority vote, will present the findings and **recommendations** to the Commission.

• The Board may **request** additional investigations of the Division OR...

• **Recommend** the Commission direct the Division to investigate any potential grounds for decertification of a peace officer by a majority vote.
The peace officer shall be provided with a copy of all materials used by the Division to make the decision.

The peace officer or representative may present written or oral arguments.

When feasible, the peace officer or representative shall be present.

The Bagley-Keene Open Meeting Act applies to California State agencies, boards and commissions.

Hearings are open to the public.
OVERVIEW OF DECERTIFICATION PROCESS

1. Serious Misconduct Allegation Session 3
2. Division Review Session 3
3. Board Review
4. Commission Review
5. ALJ Review
6. Commission Review
7. Decertification
• To review recommendations made by the Board that may provide grounds for suspension or revocation of a peace officer’s certification.

• If such grounds exist, the Commission, upon a **2/3 vote**, can adopt the Board recommendation for suspension or revocation.

• If the Commission disagrees, they may provide their analysis and reasons for reaching a different determination.

• The Commission shall return any determination requiring action to be taken against certification to the Division. The Division shall initiate proceeding with ALJ.

• Hearings are open to the public.
OVERVIEW OF DECERTIFICATION PROCESS

- Serious Misconduct Allegation Session 3
- Division Review Session 3
- Board Review
- Commission Review
- ALJ Review
- Commission Review
- Decertification
• Hearings are held under the State Administrative Procedure Act.

• Administrative law hearings are less formal than courtroom trials.

• Hearings are typically held at the Office of Administrative Hearing nearest the place of transaction or residence.

• Hearings are public, but the ALJ may close all or part of the hearing from public.

• Parties have the right to witness testimony.

• Evidentiary hearings.

• The presiding judge’s decision will be in writing and will include a statement of the factual and legal basis of the decision.
OVERVIEW OF DECERTIFICATION PROCESS

Serious Misconduct Allegation Session 3
Division Review Session 3
Board Review
Commission Review
ALJ Review
Commission Review
Decertification
AFTER THE ALJ PROCESS - COMMISSION

REVIEW FINDINGS AND RECOMMENDATION OF THE ALJ

ACCEPT OR REJECT ALJ PROPOSED OPINION AND MAKE THE FINAL DETERMINATION

Officer, Agency & District Attorney Notification
A final determination by the Commission.
Publications
NDI, POST Website, Annual Report
AFFIDAVIT OF SEPARATION, POST 2-357 (03/2022)

- Includes serious misconduct categories (Sec. 13).
- Signed under penalty of perjury.
  - Wet signature only.
- Required upload in EDI within 10 days of separation of employment.
- The agency must maintain a copy.
VOLUNTARY SURRENDER, POST 2-359 (03/2022)

- Any peace officer may voluntarily surrender their certification permanently
- Shall have the same effect as revocation
- Certificate cannot be reactivated
- NDI is notified and included in Annual Report
DIVISION REPORTING & PUBLICATIONS
The Commission shall:

- Publish the names of any peace officer whose certification is suspended or revoked and the basis for the suspension or revocation.

- Shall notify the National Decertification Index (NDI) of the International Association of Directors of Law Enforcement Standards and Training of the suspension or revocation.

- Annual Report
ANNUAL REPORT

- The number of applications for certification and the number of certifications granted or denied.
- The number of events reported pursuant to paragraphs (1) to (5), inclusive, of subdivision (a) of Penal Code Section 13510.9.
- The criteria and process for review and investigation by the Division, the number of reviews, and the number of investigations conducted by the Division.
- The number of notices sent by the Division pursuant to paragraph (1) of subdivision (a) of Penal Code Section 13510.85, the number of requests for review received, and the number of suspensions or revocations or denials made pursuant to paragraph (2) of subdivision (a) of Penal Code Section 13510.85.
- The number of review hearings held by the Board and Commission and the outcomes of those review hearings.
- The number of administrative hearings held on suspensions or revocations and the number of suspensions or revocations resulting from those hearings.
- Any cases of judicial review of commission actions on suspension or revocation and the result of those cases.
- The number of certifications voluntarily surrendered, and the number placed on inactive status.
- Any compliance audits or reviews conducted and the results of those audits.
QUESTION AND ANSWER
CAREER OPPORTUNITIES AT POST

https://post.ca.gov/job-opportunities-at-post

• LAW ENFORCEMENT CONSULTANTS
• BUREAU CHIEFS
• ANALYSTS
• MANAGERS
• HR PROFESSIONALS
• LEGAL STAFF

POST CAREER INFORMATION WEBINAR - MAY 5, 2022 - 10:00AM

ZOOM REGISTRATION LINK:

SB 2 FIELD WORKSHOPS
More Questions?

Website: www.post.ca.gov/sb-2

Email: SB2@post.ca.gov or mark.nagel@post.ca.gov
5 Question Survey

https://post.ca.gov/SB-2-Informational-Workshop-Survey