

Chapter 03: Hearings, Denial or Other Sanctions of Certificates

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Purpose

100 This section establishes policy and procedures governing the classification of "not eligible for certification" or the reprimand, suspension (under conditions imposed by the board), recall or cancellation of the professional certificate of a law enforcement officer. This section also establishes the policy and procedures for board hearings for anyone aggrieved of a finding by the staff or to make special requests for relief under board policies.

Policy

101 The Board may reject any unqualified applicant for certification by a classification of not eligible for certification. Further, the Board reserves the right to reprimand, suspend or cancel and recall any certificate when:

101.1 The certificate was issued by administrative error;

101.2 The certificate was obtained through misrepresentation or fraud;

101.3 The holder has been convicted, pled guilty, pled nolo contendere, fined, ordered into probation or pre-trial diversion in relation to a felony or a crime involving moral turpitude;

101.4 The holder has committed an act of malfeasance or has been dismissed from his employing law enforcement agency;

101.5 Or other due cause as determined by the Board.

1. The Board has established standards and qualifications by rule and regulation for the employment of law enforcement officers as they relate to the competence and reliability of persons to discharge the responsibilities of that position of public trust. These standards address minimum age, education, training, physical and mental standards, citizenship, good moral character and experience.
2. Any condition, conduct or action that would breach the established minimum standards, violate the *Law Enforcement Code of Ethics* or would greatly diminish the public trust in the competence and reliability of a law enforcement officer would be actionable as due cause for reprimand, suspension (under conditions), recall or cancellation of a certificate.

Procedures

- 102 The procedures listed herein shall be followed to ensure a fair and expedient process consistent with law.
- 102.1 The Board staff shall open a certification review file upon the instruction of the assistant director or the director. The director or the assistant may base the opening of a review file on a number of sources.
1. Routine activity by the Board staff that discloses noncompliance with the LEOTP or established policy shall be considered as possible basis for opening a certification review file.
 2. Law enforcement agency heads may request in writing to the assistant director or the director that a certification review file be opened.
 3. The investigative divisions of the state or a political subdivision thereof may request in writing to the assistant director or the director that a certification review file be opened.
 - a. All such requests in Chapter-03, Section-102, Subsection-102.01, Paragraph-2 and 3 above, should be accompanied by documents to support the review request. All accepted materials shall become a part of the individual officer's application packet.
 - b. The release of these materials shall be in accordance with the Board's policy and the Open Meetings and Records Act.
- 102.2 Once the certification review file has been opened, the Board staff shall be responsible for organizing the materials submitted as a result of the review process. The staff may correspond with the employer, official records clerks or investigative agencies to clarify information. The staff may also initiate a request through the director to the investigative division of the Office of the Attorney General for further investigative support if needed.
- 102.3 The staff will indicate whether criminal charges have been initiated and maintain a current status report for each opened certification review file. (Information on court dates, hearings, pleas, adjudication status and sentencing shall be maintained to enable the director to take immediate action once a case has been heard.)
- 102.4 The director or the assistant director shall review the status of all open certification review files on a regular basis.
- 102.5 Once the director believes that there is sufficient cause to support a Board action in the case, the director shall decide whether a sanction should be initiated. The director may elect to:

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1. delay consideration pending further information;
 2. proceed with an administrative action such as a declaration of ineligible for certification or other approved sanction,
 3. proceed with a hearing to enable the full Board to evaluate the case.
- 102.6 The director shall have the administrative authority to issue both temporary or permanent declarations of ineligibility for certification as well as an administrative revocation of those certificate holders who have been adjudicated guilty of a felony crime.
- 102.7 Individuals must be notified in writing of any administrative sanction including non-eligibility. The notification letter must contain the reasons for the sanction as well as a statement of the specific findings by the staff. The notification letter must also include instructions for requesting a board hearing.
- 102.8 Board hearings may be convened at the request of the director or upon the receipt of a request from an individual aggrieved of a staff finding, administrative action or to obtain relief under board policies. The director shall inform the Chair of any requests for a hearing and provide any additional information related to the hearing. The Chair may elect to hold the hearing at the next regularly scheduled meeting or at a specially convened meeting for that purpose.
1. Once the date has been established for the hearing, the director shall notify the officer and the agency head of the hearing date. The letter shall state, in clear terms, the time and place of the hearing, purpose of the hearing and proposed action to be taken. The letter will also:
 - a. Invite the officer to appear personally before the Board to make a presentation on his certification.
 - b. Advise the officer that they have a right to be heard, present evidence and that they may bring people to give oral testimony or to provide assistance in the presentation. They also may question any adverse witnesses.
 - c. Advise the officer that they may have counsel assist and/or represent them at the hearing.
 - d. Advise the officer that strict rules of evidence do not apply.
 - e. Advise the officer that documents may be submitted for consideration. All copies of any official documents must be submitted under the county seal or notary public. Any written testimony must be presented in the

form of duly sworn affidavits. All documents must be submitted to the Board staff not later than five working days before the hearing.

- 102.9 Any document available under the Open Records Act shall be made available to the respondent upon request. A continuance for the hearing may be granted provided the respondent demonstrates good cause.
- 102.10 At the appointed time, the chair shall convene the certification hearing. The chair or the vice chair shall be the presiding officer and control the course of the hearing. The Board itself shall constitute the hearing panel.
1. The proceedings of the hearing shall be recorded electronically and a record made by a qualified court reporter.
 2. The Board shall consider all oral and written material presented at the hearing.
 3. The Board Attorney shall begin by putting information into the record including:
 - a. The fact that the respondent received notice of hearing and complaint,
 - b. The fact that the respondent has applied for certification or has been certified by the board.
 - c. The fact that the respondent was advised of his right to have counsel present, to be heard, present evidence, witnesses and question any adverse witnesses.
 4. The Board Attorney shall have the court reporter administer an oath to all those present who desire to speak on record.
 5. The hearing shall proceed with the board's representatives presenting their evidence and/or witnesses. The respondent may cross examine any witness. At the conclusion of the board's presentation, the respondent will then be given an opportunity to present evidence or witnesses. The board's representative may cross examine any witness. The Board Members may ask any questions they have of any witness during the hearing.
 6. At the conclusion of all presentations and arguments, the Board may vote to enter executive session to deliberate their findings and conclusions. The final vote shall be recorded for the record. During the executive session, members may request the director, other staff or witnesses to provide assistance or to review previous information on the record.
 7. During deliberations the Board shall first consider the factual charges against the officer and determine if the information presented supports the charges.

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If the Board finds that one or more of the charges are supported, then the Board shall consider the appropriate sanction.

8. The Board action shall be reduced to writing and entered into the written record of the proceedings. This record shall report the Board's findings of fact relative to each charge and the certification sanction by the Board.
- 102.11 The director shall notify the employing agency and the officer in writing of the Board's decision. If the Board suspended or recalled the certificate, the notification shall advise the employer that no person shall serve as a law enforcement officer during a period when that person's certificate has been suspended, canceled or recalled in accordance with Mississippi Code Annotated, § 45-6-11 (3).
- 102.12 An officer aggrieved by the findings and order of the Board may file an appeal with the chancery court of the county in which the officer was employed. The officer must submit written notice of the appeal and the appropriate venue to the Board within thirty days after the date of the Board's final order.