

**MONTANA Public Safety Officer Standards and Training Council**  
**Committee Meeting Agenda ~ August 8, 2023**  
**ARM Committee Meeting 9:00 a.m. ~ 12:00 p.m.**  
**Montana Law Enforcement Academy, Administration Building**  
**Helena, Montana**

**Teams Videoconference Participant Information**

Meeting ID: 241 432 176 041

**Dial-in Participant Information**

Dial-in number: 406-318-5487

Conference ID: 287 993 077#

- I. 9:00 a.m. ~ Call meeting to order, roll call, identify and welcome guests.**
- II. 9:05 a.m. ~ Public Comment**
- III. 9:10 a.m. ~ ARM Discussion**
  - a. Subchapter 1 ~ **pp. 2-13**
  - b. Subchapter 2 ~ **pp. 14-36**
  - c. Subchapter 3 ~ **pp. 37-42**
  - d. Subchapter 6 ~ **pp. 43-44**
  - e. Subchapter 7 ~ **pp. 45-62**
  - f. Proposed New Subchapter 8 ~ **pp. 63-70**
- IV. 12:00 p.m. ~ Adjourn**

\* Executive Sessions are closed to the public in order to protect the privacy rights of individuals.

Times are approximate; actual times may vary depending on presentation/discussion time.

1 **23.13.101 Organization and General Provisions, Public Inspection of Orders**

2 **and Decisions** (1) The organization and function of the Public Safety Officers  
3 Standards and Training Council (“POST” or “POST Council”) are described in  
4 ARM 23.1.101(1)(d), (2)(~~k~~), (j) and (4).

5 (2) POST will maintain an index of all final orders and decisions in  
6 contested cases and declaratory rulings. All final decisions and orders must be  
7 available for public inspection on request, except confidential information which is  
8 protected from disclosure by federal or state law. Copies of final decisions and  
9 orders must be given to the public on request after payment of the cost of  
10 duplication.

11  
12 **23.13.102 Definitions** As used in this chapter, the following definitions apply:

13 (1) “Allegation” means:

14 (a) a statement or accusation of misconduct made against a public safety  
15 officer to POST staff or the council by anyone;

16 (b) a statement or accusation of misconduct against a public safety officer  
17 made by the POST executive director acting upon any credible knowledge,  
18 information, or belief;

19 (c) the document or statement, prior to the notice of agency action, that  
20 initiates the ~~informal denial, revocation, suspension, or sanction proceeding against~~  
21 preliminary investigation of an officer.

22 ~~(2) “Case status committee” is a three member committee of the POST~~  
23 ~~Council, appointed by the chair of the council. The council chair shall designate a~~  
24 ~~chair of the case status committee. The case status committee’s purpose is to~~  
25 ~~determine whether allegations of misconduct by a public safety officer should be~~  
26 ~~investigated by POST staff, to determine whether a certificate sanction is~~  
27 ~~appropriate, to determine the appropriate sanction to a certificate upon a finding of~~

1 misconduct, and to review other proposed actions at the request of the director. The  
2 director will act based upon a majority vote of the case status committee.

3 (3) (2) "Certification" or "certificate" means any certification granted by the  
4 council after completion of the specific requirements as set forth in these rules.

5 (4) (3) "Contested case" means:

6 (a) a civil administrative proceeding that progresses pursuant to notice and  
7 hearing as outlined in MAPA and these rules; or, and which is initiated by a request  
8 for a hearing from an officer after the officer has received a notice of agency action  
9 imposing denial, sanction, suspension, or revocation by the director when the case  
10 could not be settled at the preliminary stage of review, investigation, or informal  
11 proceeding.

12 (b) a proceeding initiated by a request for a hearing from the officer after the  
13 officer has received a notice of agency action imposing sanction, suspension, or  
14 revocation by the director when the case could not be settled at the preliminary  
15 stage of review, investigation, or informal proceeding.

16 (5) (4)(a) "Conviction" means a judgment or sentence entered upon a guilty  
17 or nolo contendere plea or upon a verdict or finding of guilty rendered legal finding  
18 of criminal culpability by one of the following:

19 (i) entry of a guilty, nolo contendere, or Alford plea;  
20 (ii) a verdict or finding of guilty rendered by a legally constituted jury; or  
21 (iii) a verdict or finding of guilty by a court of competent jurisdiction  
22 authorized to try the case without a jury.

23 (b) This definition applies to any finding of criminal culpability, without  
24 regard to the sentence imposed, whether a sentence was imposed, or whether the  
25 finding is later dismissed.

1           ~~(6)~~ (5) “Council” or “POST Council” or “POST” means the ~~full 13 member~~  
2 Public Safety Officer Standards and Training Council as created by 2-15-2029,  
3 MCA.

4           ~~(7)~~ (6) “Denial,” “deny,” or “denied” means POST’s permanent refusal to  
5 issue a basic certificate in any discipline, due to any violation of ARM 23.13.203 or  
6 23.13.702.

7           (7) “Director” or “executive director” means the ~~bureau chief~~ executive  
8 director of the public safety officer standards and training ~~bureau~~ council.

9           (8) “Employing authority,” “employing agency,” “appointing authority,” or  
10 “governmental unit” means any entity that is statutorily empowered with  
11 administration, supervision, hiring or firing authority, training, or oversight over a  
12 public safety agency or officer. This may include but is not limited to: the chief of  
13 police, mayor, county attorney, city council, warden, sheriff, etc.

14           (9) “Equivalency” means the process through which an officer who has  
15 successfully completed a basic course that is taught or approved by a federal, state,  
16 local, or United States military law enforcement agency, that satisfies the basic  
17 training requirement for that agency, may obtain a Montana POST basic certificate  
18 without completing the MLEA basic academy.

19           (9) “Field training” means instruction, training, or skill practice rendered to  
20 an officer by another officer or officers on a tutorial basis during a tour of duty  
21 while performing the normal activities of that officer’s employment.

22           (10) “Hearing examiner” means the chair or the council’s designated  
23 representative, who regulates the course of a contested case proceeding or other  
24 hearing held by the council, pursuant to 2-4-611, MCA and these rules. Powers of a  
25 presiding officer are the same as those of a hearing examiner.

26           (11) “In-service training” means training which is not POST-approved  
27 training, and which is provided by an ~~employing~~ appointing agency ~~within a law~~

1 enforcement and/or to public safety agency officers to review and develop skills and  
2 knowledge for the a specific agency's officer's needs.

3 (12) ~~“Informal proceeding” means a proceeding that occurs before a MAPA~~  
4 ~~contested case proceeding and includes but is not limited to: correspondence~~  
5 ~~between POST and the officer accused of misconduct and his employing authority;~~  
6 ~~investigation by POST; stipulation or settlement negotiations or agreement; or a~~  
7 ~~sanction, suspension, or revocation imposed through a notice of agency action.~~

8 (12) “Lateral POST training credit” means training which has been provided  
9 to a public safety officer who was formerly employed by a federal agency, state,  
10 tribe, county, municipality, city, or town, which is not a Montana public safety  
11 agency, and who is currently employed by a Montana public safety agency, when  
12 that training meets the requirements of POST-approved training. Lateral POST  
13 training credit will not be entered on an officer's POST transcript, but it may be  
14 used toward POST certificates as outlined in these rules.

15 (13) “MAPA” means the Montana Administrative Procedure Act, Title 2,  
16 chapter 4, part 6, MCA.

17 (14) “Misconduct” means any action or conduct that could potentially result  
18 in denial, sanction, suspension, or revocation of POST certification pursuant to  
19 ARM 23.13.702 or a violation of the code of ethics contained in ARM 23.13.203.

20 (15) “Misdemeanor probation/pretrial services officer” means a public  
21 safety officer who regularly performs the following functions as part of their work  
22 assignment:

23 (a) gathers information about pretrial defendants or misdemeanants through  
24 interviews and records checks;

25 (b) reports information regarding pretrial defendants or misdemeanants to a  
26 judge so the judge can determine the propriety of pretrial supervision, detainment,  
27 or sentence revocation;

1 (c) monitors pretrial defendants' or misdemeanants' compliance with court-  
2 ordered pretrial release or misdemeanor probation conditions;

3 (d) provides information and resources to pretrial defendants or  
4 misdemeanants to help prevent violations of court-ordered conditions; and

5 (e) reports violations of court-ordered conditions to the court.

6 (16) "MLEA" or "Academy" means the Montana Law Enforcement  
7 Academy.

8 (17) "Notice of agency action" means the document that:

9 (a) gives an officer the notice required under 2-4-601, MCA;

10 (b) informs the officer of the denial, suspension, revocation, or sanction  
11 imposed by the POST director and the supporting reasons;

12 (c) initiates the 30-day time period in which an officer may request a hearing  
13 and thus initiate a contested case proceeding under MAPA.

14 (18) "Party" means one side, or its representative, in an informal a  
15 preliminary investigation or contested case proceeding, usually the respondent or  
16 POST.

17 (19) "POST-approved training" means training reviewed and approved by  
18 POST pursuant to ARM 23.13.301 these rules for which POST gives training credit,  
19 including but not limited to basic, regional, and professional courses.

20 (20) "POST-certified instructor" means a public safety officer, as defined in  
21 these rules, who has met the requirements for and received an Instructor Certificate  
22 pursuant to these rules, and who may apply for and receive approval for POST  
23 training POST-approved training credit pursuant to these rules, for trainings the  
24 officer conducts.

25 (21) "Presiding officer" means the chair of the council who holds all the  
26 same powers as a hearing examiner for the purpose of contested cases.

27

1 (22) "Public safety officer" means an officer, as defined in 44-4-401, MCA.  
2 Nothing in these rules may be construed to apply the requirements of 7-32-303 or  
3 44-4-403, MCA to an elected official Sheriff or Coroner.

4 (23) "Reject" or "Rejection" means POST's refusal of any request or  
5 application by a public safety officer or a public safety agency, which is not a denial  
6 as defined in these rules.

7 (23) (24) "Respondent" means the public safety officer against whom an  
8 allegation of misconduct has been made, or the officer's legal representative.

9 (24) (25) "Revocation" means the permanent cancellation by the Director or  
10 Council of a public safety officer's POST certificate, certification, and certifiability  
11 such that the performance of public safety officer duties is no longer permitted.

12 (25) (26) "Roll call training" means instruction or training of short duration,  
13 less than two hours, within any law enforcement and/or any public safety agency,  
14 conducted when officers change shifts.

15 (26) (27) "Sanction" means a consequence or punishment for a violation of  
16 ARM 23.13.702, 23.13.203, or the laws or rules of Montana.

17 (27) (28) "Sexual misconduct" is defined as:

18 (a) any sexual activity, contact, or communication which occurs while the  
19 officer is on duty;

20 (b) any sexual contact without consent as defined in 45-5-501(1)(b), MCA,  
21 without regard to whether such violation results in criminal charges or a conviction,  
22 including gratuitous physical contact with suspects or other civilians, such as  
23 unnecessary searches, frisks, or pat-downs;

24 (c) any sexual activity, contact, or communication, on or off duty, which the  
25 officer facilitates with public safety agency property, resources, or information  
26 systems;

1 (d) procuring, observing, or disseminating pornographic or sexually  
2 offensive material either on duty or using department property or resources, when  
3 such procurement, observation, or dissemination is not related to the officer's  
4 official duties;

5 (e) engaging in sexual harassment as defined in applicable laws; or

6 (f) any other sexual conduct which, whether committed in the officer's  
7 capacity as an officer or otherwise, is prejudicial to the administration of justice or  
8 reflects adversely on the ~~employing~~ appointing authority's integrity or the officer's  
9 honesty, integrity, or fitness as an officer.

10 ~~(28)~~ (29) "Substance abuse" means the use of illegal drugs, other illegal  
11 substances, or legally acquired drugs in a manner that substantially limits the  
12 officer's ability to perform the essential duties of a public safety officer, or poses a  
13 direct threat to the health or safety of the public or a fellow officer.

14 ~~(29)~~ (30) "Suspension" means the annulment, for a time period set by the  
15 director or council, of a public safety officer's POST certificate, certification, and  
16 certifiability, such that the performance of public safety or peace officer duties is  
17 not permitted during that period of time.

18 ~~(30)~~ (31) "Voluntary surrender" means a public safety officer agrees to the  
19 revocation of the officer's certificate.

20  
21 **23.13.103 Record of All POST Council Meetings** (1) As required by Title 2,  
22 chapter 6, MCA, POST will maintain records of all meetings and make those  
23 records available for public inspection. The record consists of an audio recording,  
24 transcript, or and minutes of the proceedings. ~~The audio recording is the official~~  
25 ~~record of POST meetings.~~ POST will maintain an audio recording of its meetings  
26 whenever possible.  
27



**23.13.104 Notice to the Public of POST Council Actions of Significant Interest**

**to the Public** (1) In accordance with 2-3-102 through 2-3-114, MCA, prior to making a final decision that is of significant interest to the public, POST will afford reasonable opportunity for public participation. Reasonable opportunity for public participation may be afforded by:

(a) any of the agency actions allowed pursuant to 2-3-104, MCA; or

(b) a notice of the proposed agency action published in the register in accordance with template 102a ([www.armtemplates.com](http://www.armtemplates.com)). POST may grant or deny an opportunity for hearing, except a hearing is required if the proposed action is the adoption of rules in an area of significant interest to the public.

(2) For purposes of (1)(b) only, significant interest to the public is defined at 2-4-102, MCA, as matters an agency knows to be of widespread citizen interest.

(3) Public comment on any public matter within the jurisdiction of POST must be allowed at any public meeting under 2-3-103(1)(b), 2-3-202, and 2-3-203, MCA, defining “public matter” and “meeting” and stating the requirements applicable to opening and closing meetings to the public. The opportunity for public comment must be reflected on the meeting agenda and incorporated into the official minutes of the meeting. For purposes of this rule and 2-3-103(1)(b), MCA, contested case is defined at 2-4-102(4), MCA.

(4)(a) The POST Council or its committees may hold closed or executive sessions if the Chair of the POST Council or the Chair of the committee determines that:

(i) The matters to be discussed involve issues of individual privacy that clearly exceed the merits of public disclosure; or

(ii) The matters to be discussed involve privileged legal communication, including attorney-client communication or attorney work product, or would otherwise have a detrimental effect on POST’s litigation position. ~~The matters to be~~

~~discussed are in active litigation or are issues likely to be litigated, and discussion of the matters in an open meeting could have a detrimental effect on POST's litigation position.~~

(b) A Chair's determination regarding whether to hold a closed or executive session may be overruled by a majority vote of the POST Council or committee.

(c) If the POST Council or a committee takes formal action during closed or executive session, the Council or committee will announce its formal action on the public record, except when the action involves a legally recognized privilege or if the action would violate an individual's privacy interests.

**NEW RULE 1 Committees of the POST Council** (1) The following are committees of the POST Council:

(a) The Administrative Rules of Montana Committee, or ARM Committee, consists of five voting members of the POST Council. The ARM Committee's purpose is to review and analyze POST ARMs and recommend appropriate rule draft and amendment language to carry out the decisions of the POST Council. The ARM Committee's rule proposals must be approved by a majority vote of the Council prior to submission to the Secretary of State's office. The ARM Committee may, by a majority vote of the committee, direct that POST staff, with the assistance of legal counsel, prepare draft rule language for the Council's consideration.

(b) The Business Plan/Policy Committee consists of three voting members of the POST Council. The Business Plan/Policy Committee's purpose is to review and, when necessary, propose changes to the long-range business plan of the Council, and the daily operations, policies, and procedures under which the POST staff perform day-to-day business. Any substantive business plan, policy, or procedural changes must be approved by a majority vote of the Council. The

1 Business Plan/Policy Committee may, upon a majority vote of the committee, direct  
2 POST staff to prepare draft business plan or policy language for the Council's  
3 consideration.

4 (c) The Case Status Committee consists of three voting members of the  
5 POST Council. The Case Status Committee's purpose is to determine whether  
6 allegations of misconduct by a public safety officer warrant investigation by POST  
7 staff, to determine whether a certificate sanction or other action is appropriate, to  
8 determine the appropriate sanction to a certificate upon a finding of misconduct,  
9 and to review other proposed actions at the request of the director. The director and  
10 POST staff will act based upon a majority vote of the Case Status Committee. Case  
11 Status Committee members may not participate in deliberations or any decision of  
12 the full Council regarding the sanction of an officer's POST certification, except as  
13 provided in these rules.

14 (d) The Coroner Committee consists of three voting members of the POST  
15 Council. The Coroner Committee's purpose is to track and monitor issues of  
16 interest to the Montana Coroner's Association, and coroners in general. Any draft  
17 legislative proposals or other proposed action must be approved by a majority vote  
18 of the POST Council. Draft ARM proposals must be approved by a majority vote  
19 of the POST Council and may be referred to the ARM Committee for approval or  
20 drafting as well. The Coroner Committee may, by a majority vote of the  
21 committee, direct POST staff, with the assistance of legal counsel, to create draft  
22 legislation or ARM language relevant only to coroner issues for the Council's  
23 consideration.

24 (e) The Curriculum Review Committee consists of five voting members of  
25 the POST Council. The MLEA Administrator or the MLEA Administrator's  
26 designee may act as an ex-officio member of the Curriculum Review Committee.  
27 The purpose of the Curriculum Review Committee is to review and discuss

1 proposed training curriculum requiring POST approval or information. Any  
2 curriculum or basic course developed or reviewed by the Curriculum Review  
3 Committee must be approved by a majority vote of the POST Council.

4 (f) The Executive Committee consists of five members of the POST  
5 Council, including the Chair of the POST Council. The Chair of the POST Council  
6 will serve as the Chair of the Executive Committee. The purpose of Executive  
7 Committee is to make decisions necessary to implement the policies of the POST  
8 Council, and to provide additional oversight of POST staff. The decisions of the  
9 Executive Committee may include informing the Montana Legislature or a  
10 Legislative committee of positions adopted by the Council, providing advice and  
11 direction, short of ultimate decisions, regarding legal matters in which the Council  
12 is a named party, and directing action by POST staff in order to accomplish the  
13 Council's goals. The Executive Committee may direct POST staff to provide  
14 information to the Legislature or its interim committees. The Executive Committee  
15 may also direct POST staff to appear and testify before the Legislature or its interim  
16 committees in furtherance of positions taken by the Council, or on behalf of the  
17 Executive Committee. When POST staff is representing a position of the Executive  
18 Committee only, it will disclose that the Council has not taken a position on the  
19 issue. The Executive Committee may call a special meeting of the Council, and  
20 may make recommendations to the Council at a special or regular meeting.

21 (2) The POST Council may create additional committees upon a motion and  
22 resolution passed by a majority vote of the POST Council, including a description  
23 of the committee's purpose and authority. The Chair of the POST Council will  
24 appoint members, and designate Chairs of the committees of the POST Council in  
25 open meetings. The POST Council Chair's appointments are subject to approval by  
26 a majority vote of the POST Council. During its final meeting of each calendar  
27 year, the POST Council will review the membership of each of its committees and

1 determine whether new or alternative appointments should be made.

2 (3) If a committee member resigns from a committee of the POST Council  
3 or otherwise vacates the member's seat on a committee, the POST Council Chair  
4 may make an interim appointment to fill the vacancy. Interim committee members  
5 may take action and vote on issues which are before the committee until the POST  
6 Council has the opportunity to approve the appointment of the committee member  
7 at its next regularly scheduled meeting.

8 (4) The Chair may appoint non-voting ex-officio members of POST Council  
9 committees. Ex-officio members should be recognized subject matter experts in the  
10 field related to the committee's purpose. Ex-officio members may not be POST  
11 Council members. Ex-officio members are subject to approval by a majority vote  
12 of the POST Council.

DRAFT

1 **23.13.201 Minimum Standards for the Appointment and Continued**

2 **Employment Service of Public Safety Officers** (1) All public safety officers  
3 must be certified by POST and meet the applicable appointment, employment,  
4 education, and certification standards as prescribed by the Montana Code  
5 Annotated.

6 (2) In addition to standards set forth in the Montana Code Annotated,  
7 including but not limited to 44-4-404, MCA, all public safety officers must:

8 (a) be a citizen of the United States or may be a registered alien if unsworn;

9 (b) be at least 18 years of age;

10 (c) be fingerprinted and a search made of the local, state, and national  
11 fingerprint files to disclose any criminal record;

12 (d) not have been convicted of a crime for which they could have been  
13 imprisoned in a federal or state penitentiary or a crime involving unlawful sexual  
14 conduct;

15 (e) be of good moral character as determined by a thorough background  
16 check;

17 (f) be a high school graduate or have been issued an equivalency certificate  
18 by the Superintendent of Public Instruction, or by an appropriate issuing agency of  
19 another state or of the federal government;

20 (g) successfully complete an oral interview ~~and pass a thorough background~~  
21 ~~check~~ conducted by the appointing authority or its designated representative;

22 (h) be in good standing with POST and any other licensing or certification  
23 boards or committees equivalent to POST in any other state such that no license or  
24 certification similar to a POST certification has been revoked or is currently  
25 suspended in any other state;

26 (i) possess a valid driver's license if driving a vehicle will be part of the  
27 officer's duties;

1 (j) abide by the code of ethics contained in ARM 23.13.203; and  
2 (k) complete, within every two calendar years, 20 hours of documented  
3 agency in-service, roll call, field training, or POST-approved continuing education  
4 training credits, which include but are not limited to a professional ethics  
5 curriculum covering the following topics and any additional topics required by the  
6 council:

- 7 (i) a review of the Code of Ethics ARM 23.13.203 and Grounds for Denial,  
8 Sanction, Suspension, and Revocation ARM 23.13.702;  
9 (ii) review of the ~~annual~~ current POST integrity report;  
10 (iii) discussion involving core values of each employing agency appointing  
11 authority which may include integrity, honesty, empathy, sympathy, bravery,  
12 justice, hard work, kindness, compassion, and critical thinking skills;  
13 (iv) review of agency policy and procedure regarding ethical and moral  
14 codes of conduct;  
15 (v) discussion of the similarities and differences between agency and POST  
16 consequences for actions that violate policy or rule.

17 (3) Every public safety communications officer, as a part of the training  
18 required in (2)(k), must complete, every two calendar years, a telephone  
19 cardiopulmonary resuscitation (TCPR) course. The required TCPR training shall  
20 follow evidence-based, nationally recognized guidelines for high-quality TCPR that  
21 incorporate recognition protocols for out-of-hospital cardiac arrest (OHCA) and  
22 continuous education. The training must cover a minimum of the following topics:

- 23 (a) anatomy and physiology of the circulatory and cardiovascular systems;  
24 (b) relationship between circulatory, respiratory, and nervous systems;  
25 (c) signs and symptoms of acute coronary syndrome (ACS);  
26 (d) signs of life recognition;  
27 (e) early recognition of the need for CPR;

- 1 (f) agonal respirations;  
2 (g) hypoxic seizures and sudden cardiac arrest;  
3 (h) pathophysiology of sudden cardiac death/cardiac arrest;  
4 (i) the role of TCPR in cardiac arrest survival;  
5 (j) the importance of minimizing disruptions when TCPR is in progress;  
6 (k) physiology behind the performance of the instructions;  
7 (l) automated external defibrillators and the role they play in resuscitation;  
8 (m) explanation, with practical training exercises, for different TCPR  
9 instructions, including: adult, child, infant, neonate, pregnant patients, obese  
10 patients, and stoma patients;  
11 (n) critical incident stress management; and  
12 (o) unusual circumstances posing challenges to the delivery of TCPR  
13 instructions, such as: patients with do-not-resuscitate orders or physician orders for  
14 life-sustaining treatment, patients on ventilators, post-operation patients, patients  
15 obviously dead on arrival, electrocution, drowning, strangulation, two-rescuers  
16 ventilations, and cardiac arrest from trauma.

17 (4) The POST Council is not responsible for maintaining records of  
18 continuing education hours acquired to satisfy the requirements of (2)(j) and (2)(k).  
19 The employing agency appointing authority must maintain records of the  
20 administration of the oath and the continuing education hours acquired to satisfy  
21 (2)(j) and (2)(k). Agency records maintained under this rule are subject to audit by  
22 the executive director during normal business hours upon reasonable notice to the  
23 agency.

24  
25 ***Should we create a Subchapter 8 for “Appointment of Public Safety Officers” and***  
26 ***transfer this Rule?***  
27



1 **23.13.203 Code of Ethics** (1) All public safety officers who have been hired or  
2 ~~employed~~ appointed by any ~~agency or entity~~ appointing authority in Montana, or  
3 who have been certified by POST, or who have attended an MLEA basic class must  
4 abide by the code of ethics contained herein.

5 (2) All public safety officers hired or sworn before this rule's effective date  
6 are also bound by the code of ethics contained in this rule. Continued ~~employment~~  
7 service as a public safety officer in Montana constitutes an agreement to be bound  
8 by this code of ethics. Failure to comply with or violation of any part of the code of  
9 ethics may be grounds for denial, suspension, sanction, or revocation of any POST  
10 certificate.

11 (3) The public safety officers' code of ethics is:

12 (a) "My fundamental responsibility as a public safety officer is to serve the  
13 community, safeguard lives and property, protect the innocent, keep the peace, and  
14 ensure the constitutional rights of all are not abridged;

15 (b) "I will perform all duties impartially, without favor or ill will and  
16 without regard to status, sex, race, religion, creed, political belief or aspiration. I  
17 will treat all citizens equally and with courtesy, consideration, and dignity. I will  
18 never allow personal feelings, animosities, or friendships to influence my official  
19 conduct;

20 (c) "I will enforce or apply all laws and regulations appropriately,  
21 courteously, and responsibly;

22 (d) "I will never employ unnecessary force or violence, and I will use only  
23 such force in the discharge of my duties as is objectively reasonable in all  
24 circumstances. I will refrain from applying unnecessary infliction of pain or  
25 suffering and will never engage in cruel, degrading, or inhuman treatment of any  
26 person;

1 (e) “Whatever I see, hear, or learn, which is of a confidential nature, I will  
2 keep in confidence unless the performance of duty or legal provision requires  
3 otherwise;

4 (f) “I will not engage in nor will I condone any acts of corruption, bribery,  
5 or criminal activity; and will disclose to the appropriate authorities all such acts. I  
6 will refuse to accept any gifts, favors, gratuities, or promises that could be  
7 interpreted as favor or cause me to refrain from performing my official duties;

8 (g) “I will strive to work in unison with all legally authorized agencies and  
9 their representatives in the pursuit of justice;

10 (h) “I will be responsible for my professional development and will take  
11 reasonable steps to improve my level of knowledge and competence;

12 (i) “I will at all times ensure that my character and conduct is admirable and  
13 will not bring discredit to my community, my agency, or my chosen profession.”  
14

15 *Should we create a Subchapter 8 for “Appointment of Public Safety Officers” and*  
16 *transfer this Rule?*  
17

18 **23.13.204 Purpose of Certificates** (1) ~~Certificates are awarded by the council for~~  
19 ~~the purpose of obtaining and raising the level of professionalism and skill of public~~  
20 ~~safety officers and to foster cooperation among the council, agencies, groups,~~  
21 ~~organizations, jurisdictions, and individuals.~~

22 ~~(2)~~ Basic, intermediate, advanced, supervisory, command, and other  
23 certificates are established and awarded by the Council to increase the  
24 professionalism and skill of public safety officers and to promote for the purpose of  
25 promoting ethical behavior, professionalism, education, and experience necessary to  
26 adequately perform the duties of a public safety officer.  
27

1        ~~(3)~~ (2) Certificates remain the property of the council. The council has the  
2 power to recall, deny, sanction, suspend, or revoke any or all certificates upon good  
3 cause based on a preponderance of the evidence as determined by the council.  
4

5        **23.13.205 General Requirements for Certification** (1) To be eligible for the  
6 award of a certificate, each officer must be a full-time or part-time public safety  
7 officer as defined by 44-4-401, MCA, at the time the application for certification is  
8 received by the council.

9        (2) Public safety officers must complete the required basic training as set by  
10 the council and Montana law.

11        (3) All public safety officers must abide by the code of ethics as prescribed  
12 in ARM 23.13.203. Acceptance of POST certification is an agreement to abide by  
13 and adopt the code of ethics and refrain from the behaviors outlined in ARM  
14 23.13.702.

15        (4) Prior to issuance of any certificate, the public safety officer must have  
16 completed the designated combinations of education, training, and experience as  
17 established by the council.

18        (5) To maintain certification the officer must:

19        (a) abide by all laws and rules of Montana, including those set forth herein;

20        (b) maintain ethical conduct by upholding and abiding by the code of ethics  
21 set forth in ARM 23.13.203 and refrain from engaging in any behavior that  
22 constitutes a ground for denial, sanction, suspension, or revocation under ARM  
23 23.13.702;

24        (c) maintain the continuing education and training requirements set forth by  
25 the council and ARM 23.13.201(2)(k).

26        (6) Training hour guidelines are as follows:  
27

1 (a) no training hours for the basic courses or legal equivalency courses may  
2 be applied to any other certificate; and

3 (b) acceptability of training hours claimed for training received from  
4 noncriminal justice sponsored agencies will be determined by the council; and  
5 requires an application for credit.

6 (7) No more than 15% of the required training hours will be allowed from  
7 in-service training. An officer who wishes to use in-service training hours when  
8 applying for ~~intermediate, or advanced, supervisory, command and other~~ certificates  
9 must submit documentation of in-service training hours with the officer's certificate  
10 application. The POST Council is not responsible for maintaining records of the  
11 course content supporting regional, online, or in-service training hours acquired to  
12 satisfy the requirements of this rule. The ~~employing agency appointing authority~~ or  
13 the individual officer must maintain records of the course content supporting  
14 regional, online, or in-service training hours acquired to satisfy this rule.

15 (8) Lateral POST training credit hours may be used to qualify for any  
16 certificate on an hour-for-hour basis.

17 (9) Applicable discipline-specific experience in any public safety agency  
18 will be considered by the council when determining the minimum standards for  
19 certification of each discipline.

20  
21 **23.13.206 Requirements for the Basic Certificate** (1) POST will issue basic  
22 certificates in the following disciplines:

- 23 (a) peace officer;
- 24 (b) detention/corrections officer;
- 25 (c) probation and parole officer;
- 26 (d) misdemeanor probation/pretrial services officer;
- 27 (e) public safety communications officer;

1 (f) coroner; and

2 (g) reserve officer.

3 (2) In addition to ARM 23.13.204 and 23.13.205, the following are required  
4 for the award of the basic certificate:

5 (a) All Montana public safety officers hired after August 1, 2008, must  
6 have completed:

7 (i) the probationary period prescribed by law or by the current employing  
8 agency appointing authority, but in any case, have a minimum of one year  
9 discipline-specific employment experience with the current employing agency  
10 appointing authority; and

11 (ii) the basic course or the equivalency as defined by the council.

12 (b) ~~Public safety officers hired before August 1, 2008, must have:~~

13 ~~(i) completed the probationary period prescribed by the employing agency,~~  
14 ~~and served a minimum of one year with the present employing agency;~~

15 ~~(ii) completed the basic course at the MLEA, or an equivalency as defined~~  
16 ~~by the council; and~~

17 ~~(iii) satisfied the requirements for the basic certificate by their experience,~~  
18 ~~and satisfactorily performed their duties as attested to by the head of the agency for~~  
19 ~~which they are employed.~~

20 (c) Public safety officers with out-of-state training or who have been  
21 formerly employed appointed by a designated federal agency, state, tribe tribal  
22 entity, county, municipality, city, or town who do not have basic certification and  
23 are employed appointed by a Montana law enforcement and/or public safety  
24 agency:

25 (i) must have completed the probationary period prescribed by law, but in  
26 any case, have a minimum of one year experience with the present employing  
27 agency appointing authority;

1 (ii) whose training or service time is determined by the council, the director,  
2 or the director's designee as equivalent to the basic course must successfully  
3 complete an equivalency program, approved by the council and administered by the  
4 MLEA. The council will require those who fail an equivalency program to  
5 successfully complete the basic course at the academy; and

6 (iii) whose training or service time is determined by the council, the  
7 director, or the director's designee as not equivalent to the basic course must, within  
8 one year of initial appointment, successfully complete the basic course.

9 ~~(d)~~(c) All of the training and equivalency requirements for the basic  
10 certificate must be accomplished within one year of the initial appointment.

11 ~~(e)~~(d) The council, the director, or the director's designee may grant a one-  
12 time extension to the one-year time requirement for public safety officers upon the  
13 written application of the officer's appointing authority. The application must  
14 explain the circumstances that make the extension necessary. The council may not  
15 grant an extension to exceed 180 days. Factors that the council may consider in  
16 granting or ~~denying~~ rejecting the extension include but are not limited to:

17 (i) illness of the public safety officer or a member of the public safety  
18 officer's immediate family;

19 (ii) absence of reasonable access to the basic course, or the legal training  
20 course; and/or

21 (iii) an unreasonable shortage of personnel within the department.

22 ~~(f)~~(e) A public safety officer who has been issued a basic certificate by the  
23 council and whose last date of employment service as a public safety officer in the  
24 discipline for which the officer received a basic certificate was less than 36 months  
25 prior to the date of the person's present appointment as a public safety officer in the  
26 discipline for which the officer received a basic certificate is not required to fulfill  
27 the basic educational requirements as set forth in these rules.

(e)(f) If the last date of employment service as a public safety officer in the discipline for which the officer received a basic certificate is more than 36 months but less than 60 months prior to the date of present employment appointment as a public safety officer in the discipline for which the officer received a basic certificate, the public safety officer may satisfy the basic requirement by successfully passing a basic equivalency course administered by the academy. If the public safety officer fails the basic equivalency course, the basic course shall be completed within the time frames set forth in the rules. If no basic equivalency course exists for the public safety officer's specific discipline, then the applicable basic course must be completed within one year of the public safety officer's most recent appointment.

(3) An officer meeting the qualifications outlined above will be issued a basic POST certificate. The discipline of the basic POST certificate issued will correspond to the basic training course the officer attended. ~~POST will consider the completion of the above requirements to constitute the officer's application for a POST basic certificate. However, if an officer wishes to fill out an application form, then POST will also consider that application.~~ POST will not reissue a basic certificate merely to change the discipline listed.

### **23.13.207 Requirements for the Public Safety Officer Intermediate Certificate**

(1) POST will issue intermediate certificates in the following disciplines:

- (a) peace officer;
- (b) detention/corrections officer;
- (c) probation and parole officer;
- (d) misdemeanor probation/pretrial services officer; and
- (e) public safety communications officer.

1 (2) In addition to ARM 23.13.204 and 23.13.205, a peace officer or  
2 probation and parole officer who is an applicant for an award of the intermediate  
3 certificate:

4 (a) ~~must have served at least one year with the present employing agency~~  
5 ~~and be satisfactorily performing the duties as attested to by the head of the~~  
6 ~~employing law enforcement and/or public safety agency;~~

7 (b) must possess the discipline-specific basic certificate; and

8 (c) must have four years of discipline-specific experience; and

9 (c) must have 200 combined ~~job-related~~ POST-approved, in-service, or  
10 lateral POST training credit hours as provided in these rules.

11 (3) In addition to ARM 23.13.204 and 23.13.205, a detention/corrections  
12 officer or a misdemeanor probation/pretrial services officer who is an applicant for  
13 an award of the intermediate certificate:

14 (a) ~~must have served at least one year with the present employing agency~~  
15 ~~and be satisfactorily performing the duties as attested to by the head of the~~  
16 ~~employing law enforcement and/or public safety agency;~~

17 (b) must possess the discipline-specific basic certificate; and

18 (c) must have four years of discipline-specific experience; and

19 (c) must have 144 combined ~~job-related~~ POST-approved, in-service, or  
20 lateral POST training credit training hours as provided in these rules.

21 (4) In addition to ARM 23.13.204 and 23.13.205, a public safety  
22 communication officer who is an applicant for an award of the intermediate  
23 certificate:

24 (a) ~~must have served at least one year with the present employing agency~~  
25 ~~and be satisfactorily performing the duties as attested to by the head of the~~  
26 ~~employing law enforcement and/or public safety agency;~~

27 (b) must possess the discipline-specific basic certificate; and



1       ~~(e)(b)~~ must have four years of discipline-specific experience; and  
2       ~~(c)~~ must have 84 combined ~~job-related~~ POST-approved, in-service, or lateral  
3 POST training credit training hours as provided in these rules.

4       (5) Officers who believe they are eligible for an intermediate certificate  
5 must submit a completed application, pursuant to NEW RULE 2. ~~with a verification~~  
6 ~~from the agency administrator that the officer's training meets the requirements of~~  
7 ~~these rules and a recommendation that the applicant should be awarded the~~  
8 ~~certificate, to the director. Applications are available from POST staff or on the~~  
9 ~~POST web site.~~

10       ~~(a) The director will review the application and approve or deny the~~  
11 ~~certification, unless the director determines as a matter of discretion that the~~  
12 ~~council's review is necessary due to extenuating circumstances.~~

13       ~~(b) Upon approval by the director, the certificate becomes valid unless the~~  
14 ~~council takes further action.~~

15       (6) A misdemeanor probation/pretrial services officer who possessed a  
16 probation and parole basic certificate before March 27, 2020 meets the requirement  
17 of (3)(b).

### 19 **23.13.208 Requirements for Public Safety Officer Advanced Certificate**

20       (1) POST will issue advanced certificates in the following disciplines:

- 21       (a) peace officer;
  - 22       (b) detention/corrections officer;
  - 23       (c) probation and parole officer;
  - 24       (d) misdemeanor probation/pretrial services officer; and
  - 25       (e) public safety communications officer.
- 26  
27

1 (2) In addition to ARM 23.13.204 and 23.13.205, a peace officer or  
2 probation and parole officer who is an applicant for an award of the advanced  
3 certificate:

4 (a) must possess the discipline-specific intermediate certificate; and

5 (b) must have eight years of discipline-specific experience and 400  
6 combined ~~job-related~~ POST-approved, in-service, or lateral POST training credit  
7 training hours as provided in these rules.

8 (3) In addition to ARM 23.13.204 and 23.13.205, a detention/corrections  
9 officer or a misdemeanor probation/pretrial services officer who is an applicant for  
10 an award of the advanced certificate:

11 (a) must possess the discipline-specific intermediate certificate; and

12 (b) must have eight years of discipline-specific experience and 304  
13 combined ~~job-related~~ POST-approved, in-service, or lateral POST training credit  
14 training hours as provided in these rules.

15 (4) In addition to ARM 23.13.204 and 23.13.205, a public safety  
16 communications officer who is an applicant for an award of the advanced  
17 certificate:

18 (a) must possess the discipline-specific intermediate certificate; and

19 (b) must have eight years of discipline-specific experience and 184  
20 combined ~~job-related~~ POST-approved, in-service, or lateral POST training credit  
21 training hours as provided in these rules.

22 (5) Officers who believe they are eligible for an advanced certificate must  
23 submit a completed application, pursuant to NEW RULE 2. ~~with a verification from~~  
24 ~~the agency administrator that the officer's training meets the requirements of these~~  
25 ~~rules and a recommendation that the applicant should be awarded the certificate, to~~  
26 ~~the director. Applications are available from POST staff or on the POST web site.~~

1 ~~(a) The director will review the application and approve or deny the~~  
2 ~~certification, unless the director determines, as a matter of discretion, that the~~  
3 ~~council's review is necessary due to extenuating circumstances.~~

4 ~~(b) Upon approval by the director the certificate becomes valid unless the~~  
5 ~~council takes further action.~~

6 (6) A misdemeanor probation/pretrial services officer who possessed a  
7 probation and parole intermediate certificate before March 27, 2020 meets the  
8 requirement of (3)(a).

9  
10 **23.13.209 Requirements for Public Safety Officer Supervisory Certificate**

11 (1) POST will issue supervisory certificates in the following disciplines:

12 (a) peace officer;

13 (b) detention/corrections officer;

14 (c) probation and parole officer;

15 (d) misdemeanor probation/pretrial services officer; and

16 (e) public safety communications officer.

17 (2) In addition to ARM 23.13.204 and 23.13.205, the applicant for an award  
18 of the supervisory certificate:

19 (a) must possess the discipline-specific intermediate certificate;

20 (b) must have successfully completed a minimum of 32-hour 32 hours of  
21 POST-approved training in supervisory, management, or leadership topic matter  
22 course; and

23 (c) must have served satisfactorily as a first-level supervisor currently and  
24 for one year prior to the date of application, as attested to by the head of the  
25 employing agency appointing authority.

26 (3) A first-level supervisor is a position above the operational level for  
27 which commensurate pay is authorized, is occupied by an officer who, in the

upward chain of command, principally is responsible for the direct supervision of employees of an agency or is subject to assignment of such responsibilities.

(4) Officers who believe they are eligible for a supervisory certificate must submit a completed application, pursuant to NEW RULE 2. with agency administrator approval, to the director. Applications are available from POST staff or on the POST web site.

~~(a) The director will then review the application and approve or deny the certification, unless the director determines, as a matter of discretion, that the council's review is necessary due to extenuating circumstances.~~

~~(b) Upon approval by the director the certificate becomes valid unless the council takes further action.~~

(5) A misdemeanor probation/pretrial services officer who possessed a probation and parole intermediate certificate before March 27, 2020 meets the requirement of (2)(a).

#### **23.13.210 Requirements for Public Safety Officer Command Certificate**

(1) POST will issue command certificates in the following disciplines:

- (a) peace officer;
- (b) detention/corrections officer;
- (c) probation and parole officer;
- (d) misdemeanor probation/pretrial services officer; and
- (e) public safety communications officer.

(2) In addition to ARM 23.13.204 and 23.13.205, the applicant for an award of the command certificate:

- (a) must possess the discipline-specific supervisory certificate;

1 (b) must have completed a professional development course or courses  
2 cumulating a minimum of 160 hours or more of POST-approved, credit hours in  
3 supervisory, management or leadership topic matter; and

4 (c) must have served satisfactorily as a first-level supervisor currently and  
5 for one year prior to the date of application, as attested to by the head of the  
6 employing agency appointing authority.

7 (3) Officers who believe they are eligible for a command certificate must  
8 submit a completed application, pursuant to NEW RULE 2. with agency  
9 administrator approval, to the director. Applications are available from POST staff  
10 or on the POST web site.

11 ~~(a) The director will then review the application and approve or deny the~~  
12 ~~certification, unless the director determines, as a matter of discretion, that the~~  
13 ~~council's review is necessary due to extenuating circumstances.~~

14 ~~(b) Upon approval by the director the certificate becomes valid unless the~~  
15 ~~council takes further action.~~

16 (4) A misdemeanor probation/pretrial services officer who possessed a  
17 probation and parole supervisory certificate before March 27, 2020 meets the  
18 requirement of (2)(a).

19  
20 **23.13.212 Instructor Certification Requirements** (1) Instructor certificates are  
21 not discipline-specific and POST may issue an instructor certificate to any public  
22 safety officer who meets the qualifications in these rules.

23 (2) A public safety officer providing POST-approved training as defined in  
24 these rules must be certified by the council as an instructor.

25 (3) To qualify as an instructor, the officer ~~shall apply to the council, on a~~  
26 ~~form approved by the council, and shall~~ must meet the following requirements:

27 (a) two years of public safety experience;

1 (b) an active POST basic certificate in the officer's current discipline;  
2 (c) an endorsement from the applicant's agency head; and  
3 (d) successful completion of a POST-approved instructor development  
4 course or its equivalent. Effective October 28, 2017, all instructor development  
5 courses must be a minimum of 40 hours in length and must include a minimum of  
6 the following:

- 7 (i) 12 hours of curriculum design;  
8 (ii) 8 hours of adult learning theories;  
9 (iii) 8 hours of foundation skills for trainers;  
10 (iv) 8 hours of training preparation and delivery; and  
11 (v) 4 hours of context of training.

12 (4) Instructor certificates in any discipline issued prior to October 28, 2017  
13 and any instructor certificate issued after October 28, 2017, may be renewed every  
14 four years.

15 (5) Officers who believe they are eligible for any instructor certificate must  
16 submit a completed application, pursuant to NEW RULE 2. The council or the  
17 director may ~~deny~~ reject applications for instructor certification for failure to satisfy  
18 the required qualifications. The council or the director may recall, suspend, or  
19 revoke instructor certificates at any time for good cause to ensure the quality of the  
20 training programs.

21 ~~(6) Officers who believe they are eligible for any instructor certificate must~~  
22 ~~submit a completed application, with agency administrator approval, to the director.~~  
23 ~~Applications are available from POST staff or on the POST web site.~~

24 ~~(a) The director will then review the application and approve or deny the~~  
25 ~~certification, unless the director determines, as a matter of discretion, that the~~  
26 ~~council's review is necessary due to extenuating circumstances.~~

1 ~~(b) Upon approval by the director the certificate becomes valid unless the~~  
2 ~~council takes further action.~~

3 (7) A misdemeanor probation/pretrial services officer who possessed a  
4 probation and parole basic certificate before March 27, 2020 meets the requirement  
5 of (3)(b).  
6

7 **23.13.214 ~~Employment~~ Appointment and Training of Reserve Officers** (1) An  
8 agency that appoints a reserve officer pursuant to 7-32-213, MCA, must submit a  
9 completed ~~employment status~~ notice of appointment form to the director within ten  
10 days of appointing the reserve officer. Within ten days of a reserve officer's  
11 termination, the appointing authority must submit a completed notice of termination  
12 form to the director.

13 (2) The ~~employing agency~~ appointing authority is responsible for training  
14 the reserve officer. The reserve officer must complete a minimum of the training as  
15 prescribed in 7-32-214, MCA, this rule within two years of the reserve officer's  
16 initial appointment, unless the reserve officer was or is a Montana peace officer  
17 who has attended the law enforcement officer basic academy at MLEA.

18 ~~(3) Training must, at a minimum, consist of the courses and hours listed in~~  
19 ~~7-32-214(1), MCA.~~

20 ~~(4) Upon notice of the reserve officer's qualification, made by the reserve~~  
21 ~~officer's agency head to the director on a form approved by the council, POST will~~  
22 ~~issue a reserve officer basic certificate to the reserve officer.~~

23  
24 ***Should we create a Subchapter 8 for "Appointment of Public Safety Officers" and***  
25 ***transfer this Rule?***  
26  
27

1                   **23.13.215 Firearms Proficiency Standards for Appointment and**

2                   **Continued Service** (1) Each agency that employs appoints a public safety officer  
3 who is authorized to carry firearms during the work assignment must:

4                   (a) require the officer to complete successfully the firearms proficiency  
5 requirements provided in this rule at least once a year, for any manufacture and  
6 model of firearm customarily carried by that officer while the officer is on duty;

7                   (b) designate a firearms instructor as defined in these rules to conduct or  
8 oversee and document annual firearms proficiency. The instructor need not be a  
9 POST-certified instructor but must have attended a minimum 40-hour POST-  
10 approved firearms instructor course or its equivalent, which includes the following  
11 topics:

- 12                   (i) firearms safety;  
13                   (ii) role of the instructor;  
14                   (iii) civil and criminal liability exposure;  
15                   (iv) instructional techniques for firearms instructors;  
16                   (v) operation of the firing line;  
17                   (vi) range preparation;  
18                   (vii) handgun;  
19                   (viii) disabled officer techniques; and  
20                   (ix) low light shooting techniques.

21                   (c) keep on file in a format readily accessible to the council a copy of all  
22 firearms proficiency records, which must include:

- 23                   (i) date of qualification;  
24                   (ii) identification of the officer;  
25                   (iii) firearm manufacture and model;  
26                   (iv) results of qualifying; and  
27                   (v) course of fire used.



- 1 (2) The minimum standards for annual firearms proficiency are:
- 2 (a) Primary duty handgun – a minimum of 30 rounds, fired at ranges from
- 3 point-blank to 15 yards with a minimum of 15 rounds at or beyond seven yards;
- 4 (b) Shotgun – minimum of five rounds fired at a distance ranging from
- 5 point-blank to 25 yards;
- 6 (c) Precision rifle – a minimum of ten rounds fired at a minimum range of
- 7 100 yards;
- 8 (d) Patrol rifle – a minimum of 20 rounds fired at a distance ranging from
- 9 point-blank to 50 yards;
- 10 (e) Fully automatic weapon – a minimum of 30 rounds fired at a distance
- 11 ranging from point-blank to ten yards, with a minimum of 25 rounds fired in full
- 12 automatic (short bursts of two or three rounds), and a minimum of five rounds fired
- 13 semi-automatic; and
- 14 (f) Secondary or backup handgun – a minimum of 12 rounds fired at a
- 15 distance ranging from point blank to at or beyond seven yards, which includes a
- 16 minimum of six rounds fired at or beyond seven yards.
- 17 (3) The minimum passing score for annual firearms proficiency is 80% for
- 18 each firearm on an IPSC Official Target or dimensional equivalent.
- 19 (4) The MLEA sets the passing score for the Montana Law Enforcement
- 20 Basic Firearms Qualification.
- 21 (5) Before carrying a firearm or making an arrest, a misdemeanor
- 22 probation/pretrial services officer must successfully complete the firearms
- 23 proficiency requirements provided in this rule.

24

25 ***Should we create a Subchapter 8 for “Appointment of Public Safety Officers” and***

26 ***transfer this Rule?***

27

1 **23.13.216 Public Safety Officer ~~Employment~~ Appointment, Education, and**

2 **Certification Standards** (1) Except as provided in (2), the basic and basic  
3 equivalency training standards set forth in 7-32-303, MCA, are applicable to all  
4 public safety officers, where an appropriate basic course or basic equivalency  
5 course exists in the public safety officer's field. The council may approve a  
6 location other than the Montana Law Enforcement Academy for the basic or basic  
7 equivalency courses in the following disciplines: detention/corrections officer;  
8 probation and parole officer; misdemeanor probation/pretrial services officer; public  
9 safety communications officer; and coroner.

10 (2) The standards set forth in (1) do not apply to reserve officers.

11 (3) A public safety officer's ~~employing~~ appointing authority must provide  
12 written notice to POST within 10 days of the appointment, termination, resignation,  
13 or death of the public safety officer.

14  
15 *Should we create a Subchapter 8 for "Appointment of Public Safety Officers" and*  
16 *transfer this Rule?*

17  
18 **23.13.217 Requirements for SWAT Primary Course Credit** (1) To receive  
19 POST approval for a SWAT primary course, a course must meet the following  
20 requirements:

21 (a) the course must be a minimum of 40 hours in length and be approved  
22 pursuant to ARM 23.13.301 and 23.13.304 and must contain a minimum of the  
23 following:

24 (i) team communication, team make-up;

25 (ii) confrontation management to include preplanning, immediate action,  
26 planning, execution, post execution;

1 (iii) weapons, munitions, and equipment to include live fire, close quarter  
2 defense, crisis negotiations, intelligence gathering/ground reconnaissance,  
3 preplanning tactics, walk through, breaching techniques;

4 (iv) team movement and interior tactics to include approach, position, entry,  
5 search, static, dynamic, halls, stairs;

6 (v) open air/mobile assault, downed officer citizen rescue, chemical  
7 agents/diversionary device/less lethal, practical exercises, and legal issues.

8 (2) The director or the director's designee will review applications and  
9 approve or ~~deny reject~~ POST credit pursuant to these rules, unless the director  
10 determines, as a matter of discretion, that the council's review is necessary due to  
11 extenuating circumstances.

12 (3) Upon approval by the director or the director's designee, the course will  
13 be reflected on the attending officers' POST training transcripts unless the council  
14 takes further action.

15  
16 *Should this Rule be transferred to Subchapter 3?*

17  
18 **NEW RULE 2 Procedure for Obtaining POST Certification:** (1) Except as  
19 provided in (3), POST will automatically issue basic certificates to public safety  
20 officers who meet the minimum requirements outlined in these rules.

21 (2) Officers who believe they are eligible for an intermediate, advanced,  
22 supervisory, command, or instructor certificate must submit a completed  
23 application, with appointing authority approval, to the director. Applications are  
24 available from POST staff or on the POST website.

25 (a) The director or the director's designee will then review the application  
26 and approve or reject the application, unless the director determines, as a matter of  
27 discretion, that the council's review is necessary due to extenuating circumstances.

1 (b)(i) Upon approval by the director, the certificate becomes valid unless the  
2 council takes further action.

3 (ii) Upon rejection by the director, a public safety officer may request  
4 reconsideration by the Council pursuant to ARM 23.13. 704(2).

5 (3)(a) POST will not automatically issue a basic certificate to:

6 (i) Reserve officers; or

7 (ii) Any public safety officer against whom POST has received allegations  
8 of misconduct which may be a violation of the Code of Ethics in ARM 23.13.xxx or  
9 constitute grounds for denial, sanction, suspension, or revocation in ARM  
10 23.13.702.

11 (b) Upon notice of the reserve officer's qualification, made by the reserve  
12 officer's agency head to the director on a form approved by the council, POST will  
13 issue a reserve officer basic certificate to the reserve officer.

14 (c) The director and the Case Status Committee will review the  
15 qualifications of an officer accused of violations of ARM 23.13.xxx or 23.13.702,  
16 pursuant to these rules.

17 (4) POST will not consider any application for certification or recertification  
18 when the applicant's certification has previously been denied or revoked as defined  
19 in these rules, and a final agency decision, including any appeal, regarding the  
20 denial or revocation has been entered.

1           **23.13.301 Qualifications for Approval of Public Safety Officer Training**

2   **Courses** (1) The director or the director's designee may approve any request for  
3 POST training credit. Any person aggrieved by a determination made by the  
4 director under this rule may seek review of the decision by the POST Council.

5           (2) To obtain the status of POST-approved training, training courses must:

6           (a) ~~meet the requirements for trainee attendance and performance, and the~~  
7 ~~instructor requirements contained in these rules; Cover topic matter that is relevant~~  
8 ~~to the public safety profession;~~

9           (b) be based upon generally recognized best practices;

10          (c) comport with Montana laws and court decisions;

11          (d) be at least two hours or more in length;

12          (e) be advertised and open to all public safety agencies; and

13          (f) contain course content that has been reviewed and approved by the  
14 agency hosting the training, or the employing appointing authority of the officer  
15 receiving credit for the training, either before or after the training occurs, ~~through~~  
16 ~~the procedures set forth in (3).~~

17          ~~(3) A POST-certified instructor seeking course credit for public safety~~  
18 ~~officers must have an active POST certificate that is not revoked, suspended or on~~  
19 ~~probation and must submit an application for accreditation to the director and retain~~  
20 ~~documentation of:~~

21          ~~(a) an education or training record that indicates the officer has received~~  
22 ~~education or training in the specific field, subject matter, or academic discipline to~~  
23 ~~be taught;~~

24          ~~(b) material showing course content, including an agenda, syllabus and/or~~  
25 ~~lesson plan and student handouts; and~~

26          ~~(c) a copy of the course advertisement.~~

1       ~~(4) To receive POST training credit, an agency hosting a training by any~~  
2 ~~other person or entity for a public safety officer or officers must submit an~~  
3 ~~application for accreditation to the director and retain documentation of:~~  
4       ~~(a) an instructor certification or training record and an instructor biography;~~  
5       ~~(b) material showing course content, including an agenda, syllabus and/or~~  
6 ~~lesson plan and student handouts; and~~  
7       ~~(c) a copy of the course advertisement.~~  
8       ~~(5) It is the responsibility of the employing authority or any person or entity~~  
9 ~~wishing to receive POST approved training credit to retain the required~~  
10 ~~documentation set forth in these rules and monitor the standards for training, trainee~~  
11 ~~attendance, and performance as set by the council. Records maintained under this~~  
12 ~~rule are subject to audit by the executive director or the director's designee during~~  
13 ~~normal business hours upon reasonable notice to the agency.~~

14  
15       **23.13.302 Requirements for Trainee Attendance and Performance in**  
16 **POST Approved Courses** (1) Trainees enrolled in any POST-approved course  
17 must meet all the requirements in this rule in order to obtain POST credit hours.  
18 ~~shall be admitted only in accordance with rules of eligibility and admission as either~~  
19 ~~contained herein or contained in the course announcement.~~

20       (2) No trainee may receive credits for a training course if absences exceed  
21 10% of the total hours for the course.

22       (3) Any trainee who fails to comply with these rules pertaining to  
23 attendance, and performance, ~~and behavior~~ shall be denied credits.

24       (4) A POST-certified instructor will not receive training credit for any  
25 training in which the POST-certified instructor provides instruction.

1 (5) Failure to comply with the rules contained herein or other guidelines  
2 may result in either ~~denial rejection~~ of course approval or a ~~revocation withdrawal~~  
3 of course approval.

4  
5 **23.13.304 The Basic Courses** (1) The amount of training ~~for which credit~~  
6 ~~will be granted~~ hours required in any basic public safety officer's course will be  
7 ~~prescribed~~ approved by the council.

8 (2) Students in any basic public safety officers' course are required to  
9 complete instruction in the prescribed subject areas as directed by the council.

10 (3) The council will review and approve the curriculum for all basic public  
11 safety officers' courses. The review may consist of examining and approving the  
12 course syllabus and/or a thorough review of individual course performance  
13 objectives and lesson plans which have been established for each designated  
14 training block within the prescribed subject areas.

15 (4) The council may approve changes from the course content established at  
16 the last review upon written application from the MLEA administrator, training  
17 agency, or training provider providing evidence that such change is compatible with  
18 the public interest.

19  
20 **NEW RULE 3: Process for Obtaining POST Approval for Public Safety**  
21 **Officer Training Courses.** (1) POST may provide approval for POST credit hours  
22 for training that is instructed by a POST-certified instructor, or which is being  
23 hosted by a governmental agency with a Montana location.

24 (2) A POST-certified instructor seeking course credit for training provided  
25 to public safety officers must have an active POST instructor certificate that is not  
26 revoked, suspended or subject to POST sanctions and must submit an application  
27

1 for accreditation to the director or the director's designee and retain documentation  
2 of:

3 (a) an education or training record that indicates the officer has received  
4 education or training in the specific field, subject matter, or academic discipline to  
5 be taught;

6 (b) material showing course content, including an agenda, syllabus and/or  
7 lesson plan and student handouts; and

8 (c) a copy of the course advertisement.

9 (3) To receive POST training credit, a governmental agency hosting a  
10 training for a public safety officer or officers must submit an application for  
11 accreditation to the director, or the director's designee, and retain documentation of:

12 (a)(i) if the instructor is a POST-certified instructor, a copy of the  
13 instructor's instructor certificate and an education or training record that indicates  
14 the officer has received education or training in the specific field, subject matter, or  
15 academic discipline to be taught; or

16 (ii) if the instructor is not a Montana public safety officer, a copy of the  
17 instructor's biography;

18 (b) material showing course content, including an agenda, syllabus and/or  
19 lesson plan and student handouts; and

20 (c) a copy of the course advertisement.

21 (4) Any application for POST Training Credit Hours must be submitted  
22 within one year of the end of the course.

23 (5) It is the responsibility of the POST-certified instructor or the  
24 governmental agency hosting a training to retain the required documentation set  
25 forth in these rules and monitor the standards for training, trainee attendance, and  
26 performance as set by the council. Records maintained under this rule are subject to  
27 audit by the executive director or the director's designee during normal business



1 hours upon reasonable notice to the agency.

2 (6) The director or the director's designee will review the application and  
3 approve or reject the application, unless the director determines, as a matter of  
4 discretion, that the council's review is necessary due to extenuating circumstances.

5  
6 **NEW RULE 4: Process for Obtaining POST Training Credit Hours for**  
7 **Individual Public Safety Officers.** (1) POST may provide POST Training Credit  
8 Hours to individual public safety officers who submit an application after attending  
9 a training which was not approved.

10 (2) To receive POST training credit, a public safety officer must, after  
11 successful completion of a course, submit an application for accreditation to the  
12 director, or the director's designee, and retain documentation of:

13 (a)(i) if the instructor was a POST-certified instructor, a copy of the  
14 instructor's instructor certificate; or

15 (ii) if the instructor is not a Montana public safety officer, a copy of the  
16 instructor's biography;

17 (b) material showing course content, including an agenda, syllabus and/or  
18 lesson plan and student handouts;

19 (c) a copy of the course advertisement;

20 (d) a copy of the officer's certificate of completion; and

21 (e) an endorsement from the officer's appointing authority, recommending  
22 that the POST Training Credit Hours be awarded.

23 (4) Any application for POST Training Credit Hours must be submitted  
24 within one year of the end of the course.

25 (5) It is the responsibility of the public safety officer or the appointing  
26 authority of the public safety officer to retain the required documentation set forth  
27 in these rules and comply with the standards for training, trainee attendance, and

1 performance as set by the council. Records maintained under this rule are subject to  
2 audit by the executive director or the director's designee during normal business  
3 hours upon reasonable notice to the agency.

4 (6) The director or the director's designee will review the application and  
5 approve or reject the application, unless the director determines, as a matter of  
6 discretion, that the council's review is necessary due to extenuating circumstances.

DRAFT

1 **23.13.601 Coroner Education and Continued Education and Extension of**  
2 **Time Limit for Continued Certification** (1) Coroner education shall be

3 conducted as prescribed in 7-4-2905, MCA.

4 (2) New coroners and deputy coroners shall, within one year of appointment  
5 as a coroner or deputy coroner, complete the 40-hour basic coroner course at the  
6 academy or other equivalent course approved by POST.

7 ~~(a) The~~ basic coroner course must be completed in accordance with 7-4-  
8 2905, MCA.

9 (3) Coroners and deputy coroners must complete 16 hours of continuing  
10 coroner education at least once every two years. The two-year time period begins  
11 when the coroner or deputy coroner completes the basic coroner course.  
12 Subsequent two-year time periods begin when the coroner or deputy coroner  
13 completes the 16 hours of continuing education.

14 (a) The council, the director, or the director's designee may extend the two-  
15 year time limit requirement for the continuation of coroner's certification, set forth  
16 in 7-4-2905, MCA, upon the written application of the coroner or the appointing  
17 authority of the deputy coroner. The application must explain the circumstances  
18 which necessitate the extension;

19 (b) Factors considered in granting or ~~denying~~ rejecting an extension include,  
20 but are not limited to:

- 21 (i) illness of the coroner/deputy coroner or an immediate family member;  
22 (ii) absence of reasonable access to the continuing coroner education; or  
23 (iii) an unreasonable shortage of personnel;

24 (c) The council may not grant an extension to exceed 180 days from the date  
25 the 2-year time-period lapses; and

26 ~~(d) The council will not grant extensions after the expiration of the two year~~  
27 ~~time limit.~~

1       (4) Any coroner or deputy coroner who fails to complete 16 hours of  
2 continuing coroner education every two years, as required, must reattend the 40-  
3 hour coroner basic academy. Any coroner or deputy coroner who has received an  
4 extension pursuant to this rule and fails to complete 16 hours of continuing coroner  
5 education within the period of the extension, must reattend the 40-hour coroner  
6 basic academy.

DRAFT

1 **23.13.702 Grounds for Denial, Sanction, Suspension, or Revocation of POST**

2 **Certification** (1) Any legitimate allegation made against any public safety officer  
3 that may result in the denial, sanction, revocation, or suspension of that officer's  
4 certification must be considered by either:

- 5 (a) the case status committee and the executive director; or  
6 (b) the council.

7 (2) The public safety officer's employing appointing authority must report  
8 to the executive director any substantiated grounds for denial, sanction, suspension,  
9 or revocation of POST certification as enumerated in (3).

10 (a) If review of an officer's conduct is pending before any court, council,  
11 tribunal, or agency, the employing appointing authority may wait for a final  
12 adjudication before reporting must report the officer's conduct to the executive  
13 director and may request that POST take no action until final adjudication. Such a  
14 request will be granted or rejected based upon a majority vote of the case status  
15 committee.

16 (b) If ~~the an~~ officer's conduct results in termination of the officer's  
17 employment service, the notice requirements of 7-32-303, MCA, and ARM  
18 23.13.216 apply.

19 (3) The grounds for denial, sanction, suspension, or revocation of the  
20 certification of public safety officers are as follows:

21 (a) willful falsification of any information in conjunction with official  
22 duties, or any single occurrence or pattern of lying, perpetuating falsehoods, or  
23 dishonesty which may tend to undermine public confidence in the officer, the  
24 officer's employing appointing authority, or the profession;

25 (b) a physical or mental condition that substantially limits the officer's  
26 ability to perform the essential duties of a public safety officer, or poses a direct  
27 threat to the health and safety of the public or fellow officers, and that has not been

1 or cannot be eliminated or overcome by reasonable accommodation provided by the  
2 appointing authority;

3 (c) engaging in substance abuse as defined in these rules;

4 (d) unauthorized use of or being under the influence of an intoxicating  
5 substance, including alcoholic beverages or marijuana, while on duty, or the use of  
6 an intoxicating substance, including alcoholic beverages or marijuana, in a manner  
7 which tends to discredit the officer, the officer's employing appointing authority, or  
8 the profession;

9 (e) conviction of a criminal offense enumerated in Tit. 45, Ch. 5-10 or Tit.  
10 61, ch. 8, pt. 4 10, MCA, or an offense which would be a criminal offense  
11 enumerated in Tit. 45, Ch. 5-10 or Tit. 61, ch. 8, pt. 4 10, MCA if committed in this  
12 state;

13 (f) neglect of duty or willful violation of orders or policies, procedures,  
14 rules, or criminal law when such action or inaction, committed in the officer's  
15 capacity as an officer or otherwise, reflects adversely on the officer's honesty,  
16 integrity, or fitness as an officer or is prejudicial to the administration of justice;

17 (g) willful violation of the code of ethics set forth in ARM 23.13.203;

18 (h) ~~conduct which, whether committed in the officer's capacity as an officer~~  
19 ~~or otherwise, is prejudicial to the administration of justice or reflects adversely on~~  
20 ~~the employing authority's integrity or the officer's honesty, integrity, or fitness as~~  
21 ~~an officer;~~

22 (i) failure to meet the minimum standards for appointment or continued  
23 employment service as a public safety or peace officer set forth in these rules or  
24 Montana law;

25 (j) (i) failure to meet the minimum training requirements or continuing  
26 education and training requirements for a public safety or peace officer required by  
27 Montana law and these rules;

1 ~~(k)~~ (j) operating outside or ordering, permitting, or causing another officer to  
2 operate outside of the scope of authority for a public safety or peace officer as  
3 defined by 44-4-401, 44-4-404, or 7-32-303, MCA, or any other provision of  
4 Montana law regulating the conduct of public safety officers;

5 ~~(h)~~ (k) the use of excessive or unjustified force in conjunction with official  
6 duties;

7 ~~(m)~~ (l) engaging in sexual misconduct as defined in these rules; or

8 ~~(n)~~ (m) the denial, sanction, suspension, or revocation of any license or  
9 certification equivalent to a POST certification imposed by a board or committee  
10 equivalent to POST in any other state.

11 (4) It is a defense to an allegation of substance abuse, as defined in these  
12 rules, if the officer shows by a preponderance of the evidence that the officer's  
13 substance abuse has been eliminated or overcome by reasonable treatment.

14  
15 **23.13.703 Procedure for Making and Receiving Allegations of Officer**  
16 **Misconduct and for Informal Resolution of Those Allegations by the Director**

17 (1) The POST Council will create, maintain, and adopt in public meetings a policy  
18 and procedure for processing and responding to allegations. The policy and  
19 procedure will be posted on POST's web site and made publicly available. It will  
20 comply with these rules and offer the director further guidance regarding the  
21 specific steps that the director and POST staff will take when responding to  
22 allegations.

23 (2) Any allegation made against a public safety officer that states potential  
24 grounds for denial, sanction, suspension, or revocation of POST certification must  
25 ~~be made initially be provided to the employing appointing authority of the officer in~~  
26 ~~question for review and recommendation by the individual making the allegation,~~  
27 unless the ~~employing appointing~~ authority is making the allegation. All allegations

1 must be made in writing unless the director initiates the allegation. Anonymous  
2 allegations will not be considered unless the director determines that public safety  
3 may be threatened if POST takes no action on an anonymous allegation.

4 (3) Except as provided in this section, POST will not proceed with an  
5 allegation unless the individual making the allegation or POST staff has notified the  
6 employing appointing authority of the allegation. This requirement does not apply  
7 if the allegation has been made against the highest-ranking officer in the agency,  
8 who would otherwise constitute the employing appointing authority, ~~and or~~ there is  
9 some reason to believe that the investigation or public safety would be put in danger  
10 by such a notification.

11 (4) Within 30 days of being notified of the allegation, or in making its own  
12 allegation of misconduct, the employing appointing authority must give POST a  
13 notice of the employing appointing authority's investigation, action, ruling, finding,  
14 or response to the allegation, in writing, which must include a description of any  
15 remedial or disciplinary action pending or already taken against the officer  
16 regarding the allegation in question, and which may contain a recommendation  
17 from the employing appointing authority regarding whether POST should impose a  
18 sanction. If the employing appointing authority recommends POST impose a  
19 sanction, the employing appointing authority must state what sanction the  
20 employing appointing authority deems reasonable. POST shall consider but is not  
21 bound by the recommendation of the employing appointing authority. If available,  
22 a copy of the initial allegation made to the employing appointing authority and the  
23 employing appointing authority's written response must be forwarded to the  
24 director. The employing appointing authority may make a written request to the  
25 director for additional time to respond. Such a request must provide good cause as  
26 to the reason more time is required. The director may grant or deny requests for  
27 additional time at the director's discretion.



1 (5) After the employing appointing authority has been notified and given the  
2 opportunity to act, the director or POST staff may accept an allegation to be  
3 presented to the case status committee. If an allegation is received from an  
4 employing agency appointing authority, the executive director may, if appropriate  
5 under the circumstances, send a “Letter 1” (as described in the POST Council’s  
6 policy and procedure adopted under (1)) to the officer prior to consultation with the  
7 case status committee, provided the director notify the committee of the Letter 1 as  
8 soon as practicable.

9 (a) Any allegation submitted to the council must be submitted to the director  
10 or POST staff and may not be submitted to the full council or any individual  
11 member of the council.

12 (b) The allegation must provide at least the following information:

13 (i) the name, address, and telephone number of the individual making the  
14 allegation, which the director may keep confidential if the individual or public  
15 safety would be harmed by disclosure;

16 (ii) the name and place of employment appointing authority of the officer;

17 (iii) a complete description of the incident;

18 (iv) the remedy sought;

19 (c) A person making an allegation must use the allegation form available  
20 from POST staff or submit an allegation in substantially similar format.

21 (d) An employing appointing authority or the Montana Law Enforcement  
22 Academy may submit a written allegation on the agency’s letterhead with  
23 supporting documents that the agency deems appropriate.

24 (6) The director may initiate an allegation, based on good cause and reliable  
25 information, and must follow the procedure set forth in this rule as if initiated by  
26 any other individual, including but not limited to submitting the complaint to the  
27 employing appointing authority.

1 (7) After an allegation has been received or has been initiated by the  
2 director, the director, in consultation with the case status committee and contested  
3 case counsel for POST, will determine whether to dismiss the allegation, or open a  
4 preliminary investigation and correspond with the respondent in writing or .

5 (a) All such correspondence must be copied to the employing appointing  
6 authority, unless the exception noted in (3) applies.

7 (b) The policy provided in (1), will outline the number and nature of these  
8 letters.

9 (c) The purpose of this correspondence is to allow the officer to respond to  
10 the allegation, allow the case status committee, the director, and contested case  
11 counsel to gather more information, and allow the parties to reach an informal  
12 resolution.

13 (8) After an allegation is made by or filed with the director, and upon a  
14 majority vote of the case status committee, the director, contested case counsel for  
15 POST, or other POST staff or designees will investigate conduct a preliminary  
16 investigation of the complaint.

17 (9) Following the review and preliminary investigation of an allegation,  
18 communication with the respondent, communication with the employing appointing  
19 authority, and consultation with counsel for POST, and based upon a majority vote  
20 of the case status committee, the director may take any appropriate action, including  
21 but not limited to the following:

22 (a) engage in informal negotiations and settlement discussions and enter into  
23 a stipulation or memorandum of understanding with the officer or the officer's  
24 counsel, or otherwise informally resolve the complaint. An informal resolution  
25 reached before the MAPA contested case hearing stage under this subsection is not  
26 subject to approval by the council, but must be approved by a majority vote of the  
27 case status committee;

1 (b) accept the voluntary surrender of a certificate;  
2 (c) make one of the following findings, upon a majority vote of the case  
3 status committee:

4 (i) No finding: The investigation cannot proceed for reasons that include  
5 but are not limited to: the complainant failed to disclose promised information to  
6 further the investigation; ~~or~~ the complainant wishes to withdraw the complaint; or  
7 the complainant is no longer available for clarification. This finding may also be  
8 used when the information provided is not sufficient to determine the identity of the  
9 officer(s) ~~or employee(s)~~ involved.

10 (ii) Not sustained: ~~The~~ POST's review or investigation failed to discover  
11 sufficient evidence to prove or disprove the allegations.

12 (iii) Sustained: ~~The~~ POST's review or investigation disclosed a  
13 preponderance of evidence to prove the allegation(s).

14 (iv) Unfounded: ~~The~~ POST's review or investigation disclosed that the  
15 complainant made a false allegation, the subject of the complaint was not involved  
16 in the incident, or the incident did not occur.

17 (v) Exonerated: ~~The~~ POST's review or investigation disclosed that the  
18 incident occurred, but the subject of the complaint acted lawfully and in a manner  
19 consistent with the agency's policy and procedures.

20 (d) issue the appropriate denial, sanction, suspension, or revocation of a  
21 certificate upon a majority vote of the case status committee;

22 (e) if a denial, sanction, suspension, or revocation is imposed, the director  
23 must provide a notice of agency action in writing to the officer, satisfying the notice  
24 required by 2-4-601, MCA. Such notice must be mailed to the officer's last known  
25 mailing address, unless the officer consents to receiving email notification;

26 (f) the officer may request contested case proceedings pursuant to 44-4-403,  
27 MCA and MAPA, as outlined in ARM 23.13.704.

1 (10) If a review of the conduct of an officer is pending before any court,  
2 council, tribunal, or agency, the director may, as a matter of discretion, stay any  
3 proceedings for denial, sanction, suspension, or revocation pending before the  
4 council, no matter what stage or process they have reached, until the other  
5 investigation or proceeding is concluded. If the case has already been assigned to a  
6 hearing examiner, the hearing examiner must grant a stay based on an application  
7 by the director or counsel for POST. The director will notify the case status  
8 committee of the stay as soon as practicable.

9 (11) In all cases in which a written allegation is submitted which does not  
10 culminate in a MAPA contested case hearing, the director must file a written report  
11 in the officer's POST file setting forth the circumstances and resolution of the case.  
12 All written correspondence with the officer and the officer's employing appointing  
13 authority must also be maintained in the officer's POST file.

14  
15 **23.13.704 Requests for a Formal Contested Case Hearing Under MAPA** (1) If  
16 the director, upon a majority vote of the case status committee, denies, sanctions,  
17 suspends, or revokes an officer's POST certification pursuant to ARM 23.13.703(9)  
18 and the officer receives a notice of agency action, then the officer has the right to  
19 request a formal contested case proceeding under MAPA, to include a hearing,  
20 pursuant to 44-4-403(3), MCA.

21 (a) The proceedings and hearing can only be initiated by a written request  
22 from the officer whose certificate was denied, sanctioned, suspended, or revoked, or  
23 the officer's attorney, and not by any other person or entity.

24 (b) To request a hearing, the officer must follow the instructions contained  
25 in the "notice of agency action" and notify the appropriate individual or the director  
26 that the officer requests a hearing within 30 days of the date of the notice of agency  
27 action. A hearing request must identify by paragraph number the specific factual

1 allegations or law in the notice of agency action with which Respondent disagrees.  
2 It may also include a response to the allegations set forth in the notice of agency  
3 action.

4 (c) Failure to notify and request a hearing within 30 days of the date of the  
5 notice of agency action will constitute a waiver of the right to a hearing, and the  
6 notice of agency action will become the final agency decision.

7 (2) Any public safety officer or employing appointing authority aggrieved  
8 by a decision of the director, other than a decision by the director to deny, sanction,  
9 suspend, or revoke a certificate, that is not a final decision following a contested  
10 case hearing, as provided in 2-4-623, MCA, may request the denial director's  
11 decision be placed on the agenda for consideration by the council at the council's  
12 next regularly scheduled meeting.

13  
14 **23.13.705 Formal MAPA Contested Case Proceedings** (1) A contested case  
15 involves a determination by POST that affects the rights or responsibilities of the  
16 petitioner or respondent.

17 (2) Contested case proceedings may be commenced only after the  
18 requirements of ARM 23.13.704 have been met and an officer or other aggrieved  
19 person has requested a hearing.

20 (3) Contested case proceedings before the council are subject to MAPA, in  
21 addition to, where applicable, the Montana Rules of Civil Procedure, the Montana  
22 Uniform District Court Rules, the Montana Rules of Evidence, the Montana Rules  
23 of Professional Conduct, the Montana Code of Judicial Conduct, and these rules.

24 (4) In cases under ARM 23.13.704(2) (1), the respondent's failure to  
25 respond, appear, or otherwise defend a notice of agency action of which the  
26 respondent has had notice, may result in the hearing examiner finding the officer in  
27 default and entering an order against the officer containing findings of fact,

1 conclusions of law, and an opinion in accordance with MAPA, Montana Rules of  
2 Civil Procedure, and any other rule of law applicable.

3 (5) A party may be self-represented, or may, at the party's own expense, be  
4 represented by an attorney licensed to practice law in the state of Montana.

5 (6) In cases under ARM 23.13.704~~(2)~~ (1), contested case counsel for POST  
6 will represent the director during the proceedings.

7  
8 **23.13.706 Contested Cases, Emergency Suspension of a License** (1) Pursuant  
9 to 2-4-631(3), MCA, if the director or the council determines that public health,  
10 safety, or welfare requires emergency action, the director or council may  
11 immediately suspend a certification. The order must include findings justifying  
12 emergency action, and regular proceedings must be promptly initiated. If the  
13 director takes emergency action to suspend a certification, the director will inform  
14 the case status committee as soon as practicable and will take further action based  
15 upon a majority vote of the committee.

16  
17 **23.13.707 Adoption of Attorney General's Model Rules** (1) The POST Council  
18 adopts and incorporates by reference the Attorney General Model Rules ARM  
19 1.3.216, 1.3.226, 1.3.227, 1.3.228, 1.3.229, 1.3.230, and 1.3.232 in effect. The  
20 model rules incorporated by reference can be found on the Secretary of State's web  
21 site at <http://sos.mt.gov/>. In applying the model rules, references to "the agency"  
22 should be interpreted to refer to "the POST Council."

23  
24 **23.13.709 Contested Cases, Discovery** (1) In all contested cases, discovery is  
25 available to the parties in accordance with Rules 26 through 37 of the Montana  
26 Rules of Civil Procedure. All references to "court" will be considered references to  
27 the hearing examiner or POST Council; all references to subpoena power will be

1 considered references to ARM 1.3.230; all references to “trial” will be considered  
2 references to “hearing”; all references to “plaintiff” will be considered references to  
3 “a party”; all references to “clerk of court” will be considered references to the  
4 hearing examiner.

5 (2) If a party or other witness refuses to be sworn or refuses to answer any  
6 question after being directed to do so by the hearing examiner, the adversely  
7 affected party may seek enforcement in district court under 2-4-701, MCA.

8 (3) If either party seeking discovery believes it has been prejudiced by a  
9 protective order issued by the hearing examiner under Rule 26(c), M.R.Civ.P., or, if  
10 either party refuses to make discovery, the aggrieved party may petition the district  
11 court for review of the hearing examiner’s action under 2-4-701, MCA.

12 (4) Severe failures of discovery may also be sanctioned pursuant to  
13 M.R.Civ.P. 37 and the case law interpreting it. Sanctions under this subsection may  
14 be enforced by or appealed to district court pursuant to 2-4-701, MCA.

15  
16 **23.13.711 Contested Cases, Record** (1) The hearing examiner in the contested  
17 case proceeding is responsible for maintaining the official record of the contested  
18 case until its conclusion. The record must include:

- 19 (a) all pleadings, motions, and rulings;  
20 (b) all evidence, either written or oral, received, or considered by the  
21 presiding officer;  
22 (c) a statement of matters officially noticed;  
23 (d) questions and offers of proof, objections, and rulings on objections;  
24 (e) proposed findings and exceptions; and  
25 (f) any decision, opinion, or report, and any proposed findings of fact,  
26 conclusions of law, and proposed order, entered by the hearing examiner, which  
27 must be in writing.

1 (2) The hearing examiner must number the docket and maintain it like the  
2 docket of a court of record.

3 (3) At the request of any party, all or part of the hearing proceedings must  
4 be transcribed. The cost of transcription is the responsibility of the requesting  
5 party.

6  
7 **23.13.713 Contested Cases – Hearing Examiners** (1) The POST Council chair,  
8 ~~or the director, or the director's designee~~ may appoint a hearing examiner to  
9 conduct a hearing in a contested case, as allowed by 2-4-611, MCA.

10 (2) A hearing examiner appointed under 2-4-611, MCA and this rule may:

11 (a) administer oaths or affirmations;

12 (b) issue subpoenas;

13 (c) provide for the taking of testimony and depositions;

14 (d) set the time and place for hearing;

15 (e) set motion and briefing schedules that comport with the Montana Rules  
16 of Civil Procedure and the Montana Uniform District Court Rules for filing, service,  
17 deadlines, and time calculation;

18 (f) by mutual consent of the parties, hold conferences to consider narrowing  
19 or simplifying the issues;

20 (g) rule on summary judgment motions, motions in limine, and other  
21 motions and, if motions are dispositive, make recommendations to the POST  
22 Council as if a hearing on the merits had occurred;

23 (h) allow, disallow, or limit expert testimony;

24 (i) recommend to the council dismissal of the case based on M.R.Civ.P. 41,  
25 default, or other reason;

26 (j) provide for and conduct the MAPA contested case process as a matter of  
27 discretion, within the bounds of the applicable law.



1 (3) If a hearing examiner is appointed in a contested case proceeding, notice  
2 must be provided to the public safety officer ~~or other party~~ with the notice of  
3 agency action or immediately after the officer requests a hearing pursuant to 44-4-  
4 403, MCA.

5 (4) Pursuant to 2-4-611(4), MCA, the POST Council may disqualify a  
6 hearing examiner if a party shows by affidavit the existence of personal bias, lack of  
7 independence, disqualification by law, or other ground for disqualification.

8 (5) If a hearing examiner is disqualified or recuses himself or herself for  
9 good cause, the director, the director's designee, or the POST Council chair may  
10 appoint a replacement.

11 (6) For guidance on the POST Council's past actions on cases and penalties  
12 imposed, a hearing examiner may inspect POST's integrity report, available on  
13 POST's web site or from POST staff, and may examine any POST file not  
14 containing privileged, ex parte, or other protected or constitutionally private  
15 material.

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17 **23.13.714 Contested Case Hearing** (1) The contested case hearing will be  
18 conducted before the POST Council or a hearing examiner, at the council's  
19 discretion.

20 (2) The hearing will be held in Helena, Montana unless the director  
21 determines that another venue is more appropriate.

22 (3) The hearing examiner must ensure that the petitioner or respondent and  
23 counsel for POST are afforded the opportunity to respond and present evidence and  
24 argument on all issues involved.

25 (4) All testimony must be given under oath or affirmation.  
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27

(5) Exhibits must be marked and must identify the party offering the exhibits. The exhibits will be preserved by the hearing examiner and then by POST as part of the record of the proceedings.

(6) The hearing examiner may hear closing arguments, request written argument, order a schedule for parties to submit a prehearing memorandum, a final prehearing order, proposed findings of fact and conclusions of law, or any other writings that might assist the hearing examiner.

(7) The hearing examiner may grant recesses or continue the hearing.

(8) At the contested case hearing under ARM 23.13.704(2) (1):

(a) POST has the burden of proving by a preponderance of the evidence that there was good cause for the denial, sanction, suspension, or revocation of certification imposed by the director, and based upon a majority vote of the case status committee, as stated in the notice of agency action;

(b) the director will be represented by contested case counsel during the contested case process; and

(c) absent a determination by the hearing examiner that the interests of justice require otherwise, the order of hearing is as follows:

(i) opening statements by both parties;

(ii) presentation of evidence by POST;

(iii) cross examination by the respondent;

(iv) presentation of evidence by the respondent;

(v) cross examination by POST; and

(vi) rebuttal testimony.

**23.13.715 Contested Cases, Evidence** (1) All evidence introduced in a contested case hearing will be received and evaluated in conformance with common law and statutory rules of evidence, including the Montana Rules of Evidence.

1 **23.13.716 Contested Cases, Ex Parte Communications** (1) Except as provided  
2 in (4), Pursuant to 2-4-613, MCA, ex parte communication by a party or a party's  
3 agent with the hearing examiner, the council, any individual member of the council,  
4 or any person authorized to participate in the decision of the contested case, is  
5 expressly prohibited unless otherwise authorized by law.

6 (2) An unauthorized ex parte communication may be treated as a default and  
7 may constitute a waiver of the party's rights to proceed.

8 (3) If an ex parte contact occurs, the person receiving the communication  
9 must state on the record the nature and content of the communication and a  
10 summary of its contents. The presiding officer or hearing examiner may, in the  
11 exercise of discretion, make any order that is appropriate.

12 (4) The following council members may have ex parte contact:

13 (a) Current members of the case status committee; and

14 (b) Former members of the case status committee who participated in  
15 decision-making concerning the contested case; and

16 (c) Any Council member who is a material witness in the contested case. If  
17 a Council member acts as a material witness, that member may not participate in the  
18 Council's deliberation or decision in the contested case.

19  
20 **23.13.719 Decision and Order, Stays** (1) After completing a contested case  
21 proceeding, the hearing examiner shall, within ~~30~~ 45 days of the hearing, or  
22 completion of post-hearing briefing, issue findings of fact and conclusions of law  
23 that would, if adopted by the council, meet the requirements of 2-4-623, MCA.

24 (2) The council shall receive briefs and hear oral arguments at a regularly  
25 scheduled meeting and deliberate pursuant to 2-4-621, MCA. For the period  
26 between the submission of the hearing examiner's decision and oral argument  
27 before the council, the council chair will appoint general counsel to the council or

1 another individual to act as a special master for purposes of resolving any issue  
2 arising before the council hears argument.

3 ~~(2)~~ (3) Within 15 days after the hearing examiner has issued findings,  
4 conclusions, and a proposed decision, the council chair will appoint the special  
5 master. Within 21 days after written notice of the appointment of a special master,  
6 an adversely affected party may submit exceptions to the hearing examiner's  
7 decision. The council shall receive briefs and hear oral arguments at its next  
8 meeting and deliberate pursuant to 2-4-621, MCA. The party filing the exceptions  
9 must incorporate a supporting brief in the document stating the exceptions. The  
10 opposing party may file a brief in response to the exceptions within ~~ten~~ 21 days. No  
11 reply brief will be received.

12 ~~(3) For the period between the submission of the hearing examiner's~~  
13 ~~decision and the hearing before the council, general counsel for the council or~~  
14 ~~another person designated by the council chair will act as a special master for~~  
15 ~~purposes of resolving any issue arising before the council hearing.~~

16 (4) Unless a different argument order is set by the special master for good  
17 cause, the order of oral argument is as follows:

18 (a) argument by the aggrieved party;  
19 (b) argument by the opposing party;  
20 (c) final statements or rebuttal by the aggrieved party;  
21 (d) final statements or rebuttal by the opposing party; and  
22 (e) deliberations by the council, which may include questions of the parties  
23 by the council.

24 (5) A minimum of six available council members must be present to issue a  
25 decision. If six available council members are not present, the council will reset the  
26 oral argument for its next regularly scheduled meeting or set a special meeting to  
27 hear argument.

1 ~~(6)~~ After deliberating, the council will decide, by majority vote, to adopt,  
2 reject, or modify the hearing examiner's findings and recommendation. The  
3 council will issue a decision and order pursuant to 2-4-623, MCA, and mail a copy  
4 of this decision to the respondent or the respondent's legal representative.

5 ~~(5)~~ (7) If a party has filed exceptions to the decision of the hearing  
6 examiner, the contested case is not considered to be submitted for decision under 2-  
7 4-623(1), MCA, until oral arguments are concluded before the council.

8 ~~(6)~~ (8) If a certificate was denied, revoked or suspended by the director,  
9 based upon a majority vote of the case status committee, before the hearing, the  
10 certificate will remain denied, revoked or suspended pending the outcome of the  
11 contested case proceeding and the respondent must surrender the certificate(s) to the  
12 council and forfeit the position, authority, and powers afforded the officer in this  
13 state while the contested case proceeds. However, the hearing examiner, before the  
14 contested case hearing, or the special master designated in (3), after the hearing,  
15 may, upon a properly supported motion that affords POST adequate opportunity to  
16 respond, stay the denial, suspension or revocation for good cause shown.

17 ~~(7)~~ (9) Case status committee members may not participate in deliberations  
18 or any decision of the full council regarding the denial, revocation, or suspension of  
19 an officer's POST certification, unless the committee member did not participate in  
20 the committee's decisions on the matter and did not participate in committee  
21 meetings at which the matter was discussed.

### 22 23 **23.13.720 Contested Cases, Settlement or Stipulation and Process for Review**

24 **by the POST Council** (1) If, in the course of the MAPA contested case  
25 proceeding, the parties reach a stipulated agreement or settlement, the parties must:

26 (a) put the agreement into writing, signed by the petitioner or respondent, as  
27 applicable, and the director;

1 (b) present the agreement to the POST Council for acceptance or rejection:

2 (i) if the council accepts the agreement by motion, then the agreement

3 becomes the POST Council's final agency action;

4 (ii) if the council rejects the agreement, then the parties must provide the

5 hearing examiner with an excerpt of the official record of the POST meeting in

6 which the council rejected the agreement. The contested case proceeds as though

7 there had been no agreement.

8 (2) By signing a stipulation or settlement agreement, all parties:

9 (a) indicate their understanding that all agreements reached during the

10 contested case process are subject to the POST Council's approval and are not

11 binding until the council has approved the agreement by seconded motion;

12 (b) waive their rights or privileges to raise any argument, objection,

13 complaint, or attempt to disqualify or remove any POST Council member or

14 hearing examiner based on that individual's having heard, discussed, or ruled on the

15 agreement. By submitting an agreement to the hearing examiner and the council,

16 all parties agree not to attempt to disqualify that hearing examiner or any member of

17 the POST Council who considers the agreement or prevent them from ultimately

18 hearing the case on the merits if the agreement is rejected.

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20 **23.13.721 Appeals** (1) A The final POST Council decision rendered after a

21 contested case proceeding is the final agency decision subject to judicial review

22 pursuant to 2-4-702, and 44-4-403, MCA.

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**Subchapter 8: Standards for Appointment and Continued Service of  
Public Safety Officers**

**23.13.801 Minimum Standards for the Appointment and Continued**

**Employment Service of Public Safety Officers** (1) All public safety officers must be certified by POST and meet the applicable appointment, employment, education, and certification standards as prescribed by the Montana Code Annotated.

(2) In addition to standards set forth in the Montana Code Annotated, including but not limited to 44-4-404, MCA, all public safety officers must:

- (a) be a citizen of the United States or may be a registered alien if unsworn;
- (b) be at least 18 years of age;
- (c) be fingerprinted and a search made of the local, state, and national fingerprint files to disclose any criminal record;
- (d) not have been convicted of a crime for which they could have been imprisoned in a federal or state penitentiary or a crime involving unlawful sexual conduct;
- (e) be of good moral character as determined by a thorough background check;
- (f) be a high school graduate or have been issued an equivalency certificate by the Superintendent of Public Instruction, or by an appropriate issuing agency of another state or of the federal government;
- (g) successfully complete an oral interview ~~and pass a thorough background check~~ conducted by the appointing authority or its designated representative;
- (h) be in good standing with POST and any other licensing or certification boards or committees equivalent to POST in any other state such that no license or certification similar to a POST certification has been revoked or is currently suspended in any other state;

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2 (i) possess a valid driver's license if driving a vehicle will be part of the  
3 officer's duties;

4 (j) abide by the code of ethics contained in ARM 23.13.803; and

5 (k) complete, within every two calendar years, 20 hours of documented  
6 agency in-service, roll call, field training, or POST-approved continuing education  
7 training credits, which include but are not limited to a professional ethics  
8 curriculum covering the following topics and any additional topics required by the  
9 council:

10 (i) a review of the Code of Ethics ARM 23.13.803 and Grounds for Denial,  
11 Sanction, Suspension, and Revocation ARM 23.13.702;

12 (ii) review of the ~~annual~~ current POST integrity report;

13 (iii) discussion involving core values of each employing agency appointing  
14 authority which may include integrity, honesty, empathy, sympathy, bravery,  
15 justice, hard work, kindness, compassion, and critical thinking skills;

16 (iv) review of agency policy and procedure regarding ethical and moral  
17 codes of conduct;

18 (v) discussion of the similarities and differences between agency and POST  
19 consequences for actions that violate policy or rule.

20 (3) Every public safety communications officer, as a part of the training  
21 required in (2)(k), must complete, every two calendar years, a telephone  
22 cardiopulmonary resuscitation (TCPR) course. The required TCPR training shall  
23 follow evidence-based, nationally recognized guidelines for high-quality TCPR that  
24 incorporate recognition protocols for out-of-hospital cardiac arrest (OHCA) and  
25 continuous education. The training must cover a minimum of the following topics:

26 (a) anatomy and physiology of the circulatory and cardiovascular systems;

27 (b) relationship between circulatory, respiratory, and nervous systems;



- 1 (c) signs and symptoms of acute coronary syndrome (ACS);  
2 (d) signs of life recognition;  
3 (e) early recognition of the need for CPR;  
4 (f) agonal respirations;  
5 (g) hypoxic seizures and sudden cardiac arrest;  
6 (h) pathophysiology of sudden cardiac death/cardiac arrest;  
7 (i) the role of TCPR in cardiac arrest survival;  
8 (j) the importance of minimizing disruptions when TCPR is in progress;  
9 (k) physiology behind the performance of the instructions;  
10 (l) automated external defibrillators and the role they play in resuscitation;  
11 (m) explanation, with practical training exercises, for different TCPR  
12 instructions, including: adult, child, infant, neonate, pregnant patients, obese  
13 patients, and stoma patients;  
14 (n) critical incident stress management; and  
15 (o) unusual circumstances posing challenges to the delivery of TCPR  
16 instructions, such as: patients with do-not-resuscitate orders or physician orders for  
17 life-sustaining treatment, patients on ventilators, post-operation patients, patients  
18 obviously dead on arrival, electrocution, drowning, strangulation, two-rescuers  
19 ventilations, and cardiac arrest from trauma.

20 (4) The POST Council is not responsible for maintaining records of  
21 continuing education hours acquired to satisfy the requirements of (2)(j) and (2)(k).  
22 The employing agency appointing authority must maintain records of the  
23 administration of the oath and the continuing education hours acquired to satisfy  
24 (2)(j) and (2)(k). Agency records maintained under this rule are subject to audit by  
25 the executive director during normal business hours upon reasonable notice to the  
26 agency.

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1 **23.13.802 Reserved**

2 **23.13.803 Code of Ethics** (1) All public safety officers who have been hired or  
3 ~~employed~~ appointed by any ~~agency or entity~~ appointing authority in Montana, or  
4 who have been certified by POST, or who have attended an MLEA basic class must  
5 abide by the code of ethics contained herein.

6 (2) All public safety officers hired or sworn before this rule's effective date  
7 are also bound by the code of ethics contained in this rule. Continued ~~employment~~  
8 service as a public safety officer in Montana constitutes an agreement to be bound  
9 by this code of ethics. Failure to comply with or violation of any part of the code of  
10 ethics may be grounds for denial, suspension, sanction, or revocation of any POST  
11 certificate.

12 (3) The public safety officers' code of ethics is:

13 (a) "My fundamental responsibility as a public safety officer is to serve the  
14 community, safeguard lives and property, protect the innocent, keep the peace, and  
15 ensure the constitutional rights of all are not abridged;

16 (b) "I will perform all duties impartially, without favor or ill will and  
17 without regard to status, sex, race, religion, creed, political belief or aspiration. I  
18 will treat all citizens equally and with courtesy, consideration, and dignity. I will  
19 never allow personal feelings, animosities, or friendships to influence my official  
20 conduct;

21 (c) "I will enforce or apply all laws and regulations appropriately,  
22 courteously, and responsibly;

23 (d) "I will never employ unnecessary force or violence, and I will use only  
24 such force in the discharge of my duties as is objectively reasonable in all  
25 circumstances. I will refrain from applying unnecessary infliction of pain or  
26 suffering and will never engage in cruel, degrading, or inhuman treatment of any  
27 person;

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2 (e) "Whatever I see, hear, or learn, which is of a confidential nature, I will  
3 keep in confidence unless the performance of duty or legal provision requires  
4 otherwise;

5 (f) "I will not engage in nor will I condone any acts of corruption, bribery,  
6 or criminal activity; and will disclose to the appropriate authorities all such acts. I  
7 will refuse to accept any gifts, favors, gratuities, or promises that could be  
8 interpreted as favor or cause me to refrain from performing my official duties;

9 (g) "I will strive to work in unison with all legally authorized agencies and  
10 their representatives in the pursuit of justice;

11 (h) "I will be responsible for my professional development and will take  
12 reasonable steps to improve my level of knowledge and competence;

13 (i) "I will at all times ensure that my character and conduct is admirable and  
14 will not bring discredit to my community, my agency, or my chosen profession."  
15

16 **23.13.804 ~~Employment~~ Appointment and Training of Reserve Officers** (1) An  
17 agency that appoints a reserve officer pursuant to 7-32-213, MCA, must submit a  
18 completed ~~employment status~~ notice of appointment form to the director within ten  
19 days of appointing the reserve officer. Within ten days of a reserve officer's  
20 termination, the appointing authority must submit a completed notice of termination  
21 form to the director.

22 (2) The ~~employing agency~~ appointing authority is responsible for training  
23 the reserve officer. The reserve officer must complete a minimum of the training as  
24 prescribed in 7-32-214, MCA, this rule within two years of the reserve officer's  
25 initial appointment, unless the reserve officer was or is a Montana peace officer  
26 who has attended the law enforcement officer basic academy at MLEA.

27 ~~(3) Training must, at a minimum, consist of the courses and hours listed in~~

1 ~~7-32-214(1), MCA.~~

2 ~~(4) Upon notice of the reserve officer's qualification, made by the reserve~~  
3 ~~officer's agency head to the director on a form approved by the council, POST will~~  
4 ~~issue a reserve officer basic certificate to the reserve officer.~~

6 **23.13.805 Firearms Proficiency Standards for Appointment and**

7 **Continued Service** (1) Each agency that ~~employs~~ appoints a public safety officer  
8 who is authorized to carry firearms during the work assignment must:

9 (a) require the officer to complete successfully the firearms proficiency  
10 requirements provided in this rule at least once a year, for any manufacture and  
11 model of firearm customarily carried by that officer while the officer is on duty;

12 (b) designate a firearms instructor ~~as defined in these rules~~ to conduct or  
13 oversee and document annual firearms proficiency. The instructor need not be a  
14 POST-certified instructor but must have attended a minimum 40-hour POST-  
15 approved firearms instructor course or its equivalent, which includes the following  
16 topics:

- 17 (i) firearms safety;  
18 (ii) role of the instructor;  
19 (iii) civil and criminal liability exposure;  
20 (iv) instructional techniques for firearms instructors;  
21 (v) operation of the firing line;  
22 (vi) range preparation;  
23 (vii) handgun;  
24 (viii) disabled officer techniques; and  
25 (ix) low light shooting techniques.

26 (c) keep on file in a format readily accessible to the council a copy of all  
27 firearms proficiency records, which must include:

- 1 (i) date of qualification;  
2 (ii) identification of the officer;  
3 (iii) firearm manufacture and model;  
4 (iv) results of qualifying; and  
5 (v) course of fire used.
- 6 (2) The minimum standards for annual firearms proficiency are:
- 7 (a) Primary duty handgun – a minimum of 30 rounds, fired at ranges from  
8 point-blank to 15 yards with a minimum of 15 rounds at or beyond seven yards;
- 9 (b) Shotgun – minimum of five rounds fired at a distance ranging from  
10 point-blank to 25 yards;
- 11 (c) Precision rifle – a minimum of ten rounds fired at a minimum range of  
12 100 yards;
- 13 (d) Patrol rifle – a minimum of 20 rounds fired at a distance ranging from  
14 point-blank to 50 yards;
- 15 (e) Fully automatic weapon – a minimum of 30 rounds fired at a distance  
16 ranging from point-blank to ten yards, with a minimum of 25 rounds fired in full  
17 automatic (short bursts of two or three rounds), and a minimum of five rounds fired  
18 semi-automatic; and
- 19 (f) Secondary or backup handgun – a minimum of 12 rounds fired at a  
20 distance ranging from point blank to at or beyond seven yards, which includes a  
21 minimum of six rounds fired at or beyond seven yards.
- 22 (3) The minimum passing score for annual firearms proficiency is 80% for  
23 each firearm on an IPSC Official Target or dimensional equivalent.
- 24 (4) The MLEA sets the passing score for the Montana Law Enforcement  
25 Basic Firearms Qualification.
- 26 (5) Before carrying a firearm or making an arrest, a misdemeanor  
27 probation/pretrial services officer must successfully complete the firearms

1 proficiency requirements provided in this rule.

2 **23.13.806 Public Safety Officer ~~Employment~~ Appointment, Education, and**

3 **Certification Standards** (1) Except as provided in (2), the basic and basic  
4 equivalency training standards set forth in 7-32-303, MCA, are applicable to all  
5 public safety officers, where an appropriate basic course or basic equivalency  
6 course exists in the public safety officer's field. The council may approve a  
7 location other than the Montana Law Enforcement Academy for the basic or basic  
8 equivalency courses in the following disciplines: detention/corrections officer;  
9 probation and parole officer; misdemeanor probation/pretrial services officer; public  
10 safety communications officer; and coroner.

11 (2) The standards set forth in (1) do not apply to reserve officers.

12 (3) A public safety officer's ~~employing~~ appointing authority must provide  
13 written notice to POST within 10 days of the appointment, termination, resignation,  
14 or death of the public safety officer.

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