

APA-1
Revised 4/2018

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 650 Department or Agency APOSTC
Rule No. 650-X-2
Rule Title: Required Standards for Appointees as Law Enforcement Officers and For Applicants for Certification as Law Enforcement Officers
 New X Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer *[Signature]*

Date 11/30/2020

(DATE FILED)
(STAMP)

REC'D & FILED

NOV 30 2020

LEGISLATIVE SVC AGENCY

Alabama Peace Officers Standards and Training Commission
NOTICE OF INTENDED ACTION

AGENCY NAME:

Alabama Peace Officers Standards and Training Commission

RULE NO. & TITLE:

650-X-2 (entire Chapter)
Required Standards for Appointees as Law Enforcement Officers and For
Applicants for Certification as Law Enforcement Officers

INTENDED ACTION:

Amend Chapter 650-X-2

SUBSTANCE OF PROPOSED ACTION:

This action is proposed to amend the language of this chapter to comply with Code of Alabama 1975, §§36-21-40 et seq., and to further define the requirements for the Certification of Law Enforcement Officers. It requires mandatory psychological evaluations for all applicants as well as updated language integral to incorporating the changes.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

Interested parties may present their views orally or in writing to the Executive Secretary of the Alabama Peace Officers' Standards and Training Commission, Post Office Box 300075, 100 North Union Street, Suite 600, Montgomery, Alabama 36130, at any time prior to the date specified below which is more than thirty-five days following the publication of this notice.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

February 4, 2021.

CONTACT PERSON AT AGENCY:

R. Alan Benefield, Executive Secretary
(334) 242-4047
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R. Alan Benefield, Executive Secretary

ALABAMA PEACE OFFICERS STANDARDS AND TRAINING COMMISSION
ADMINISTRATIVE CODE

CHAPTER 650-X-2
REQUIRED STANDARDS FOR APPOINTEES AS LAW ENFORCEMENT
OFFICERS AND FOR APPLICANTS FOR CERTIFICATION AS
LAW ENFORCEMENT OFFICERS

TABLE OF CONTENTS

650-X-2-.01	Training
650-X-2-.02	Age
650-X-2-.03	Education Requirement
650-X-2-.04	Physical Examinations and Psychological Evaluations
650-X-2-.05	Character
650-X-2-.06	Applicants To Be Citizens
650-X-2-.07	Discharge From Armed Services
650-X-2-.08	Driver's License
650-X-2-.09	Application Package Required

RULE 650-X-2-.01 Training. For the purpose of this Chapter the term Law Enforcement Officer includes Correctional Officers employed by the Alabama Department of Corrections.

(1) Each applicant must be gainfully employed as a full-time law enforcement officer by a law enforcement agency at the time of his/her application to the academy.

(a) Full-time employment is defined as 40 hours per week or an average of 40 hours per week during the monthly or bi-weekly pay periods of most agencies.

(b) A law enforcement agency employing an applicant working less than 40 hours per week must request in writing a waiver from the Executive Secretary requesting the applicant be allowed to attend an academy.

(2) Prior to certification, the applicant shall complete the required course of training established by the Commission.

(3) An applicant may be provisionally appointed for a period of six months (180 days), after which time the appointment is null and void. No individual may be employed or appointed for an additional period until that individual is certified as a law enforcement officer by the commission.

(a) Provisional appointment requires:

1. An application package as set out in Rule 650-X-2-.09 has been submitted on the first day of employment as stipulated in Rule 650-X-1-.16(4) and has been received by the Commission.

2. A provisionally appointed law enforcement officer who is involved in patrol operation for the purpose of detection, prevention and suppression of crime or the enforcement of the traffic or highway laws of the state, including exercising the power of arrest, will be under the direct control and supervision of a certified law enforcement officer.

3. Traffic direction and control may be performed by a provisionally appointed law enforcement officer without direct supervision, provided, however, that supervisory control is exercised by a certified law enforcement officer whose total span of control would be considered within reasonable limits.

4. A provisionally appointed law enforcement officer may render crowd control assistance at public gatherings or governmental functions as directed by their employing law enforcement agency provided supervisory control is exercised by a certified law enforcement officer whose span of control would be considered within reasonable limits.

5. The provisional appointment is valid for a total of six (6) months (180 days) during a two (2) year period of 730 days from the time of first appointment by any law enforcement agency.

6. This six-month period to complete his/her required course of training cannot be extended or re-started by an applicant being terminated or re-employed by the same or another law enforcement agency nor by an applicant voluntarily changing employment from one law enforcement agency to another. Each day of the six-month provisional appointment is cumulative no matter how many law enforcement agencies the applicant has worked for during his/her six-month provisional appointment.

7. The provisional appointment of any applicant who does not complete the required course of training within six months (180 days) from the date of his/her initial employment/appointment is null and void.

8. A provisionally appointed applicant who fails to achieve certification, as required herein, within his/her six-month provisional appointment time, may not re-apply for employment/appointment as a law enforcement officer for two years following the expiration of their provisional appointment time.

Author: R. Alan Benefield, Executive Secretary

Authority: Code of Ala. 1975, §§36-21-40 et seq.

Effective Date: September 29, 1983. Amended: May 9, 1997. Amended: March 11, 1999.

Amended: September 12, 2014. Amended: September 22, 2017.

RULE 650-X-2-.02 Age. The applicant shall not be less than 19 years old.

Author: R. Alan Benefield, Executive Secretary

Authority: Code of Ala. 1975, §§36-21-40 et seq.

Effective Date: September 29, 1983. Amended: September 12, 2014. Amended: September 22, 2017.

RULE 650-X-2-.03 Education Requirement. The applicant shall meet the following education requirements:

(1) Possess a valid high school diploma, OR, possess a valid General Educational Development (GED) certificate (On-line, correspondence, or mail order GED certificates are not acceptable) AND possess a valid certification of having passed the Basic Ability Test (BAT) for Law Enforcement Officers or Correctional Officers as approved by the Commission. OR,

(2) Possess an earned Associate's Degree or higher Degree from a College or University accredited by the Southern Association of Colleges and Schools (SACS), or its regional equivalent.

(3) The Basic Ability Test is required of all applicants except those applicants who are already APOSTC certified and who are required to complete Refresher training for reinstatement of their Certification, or those applicants who meet the requirements set forth in preceding paragraph (2).

(4) The applicant shall not engage in conduct that subverts or attempts to subvert the Basic Ability Test process or violate the standards of the Basic Ability Test administration.

(a) The applicant shall not violate the application identification process. Conduct that violates the process is identified as, but not limited to, the following:

1. Falsifying or misrepresenting information required for taking the Basic Ability Test.
2. Impersonating an applicant.
3. Having an impersonator take the Basic Ability Test on one's behalf.

4. Any action on the part of the applicant, agency, or appointing authority which impugns the integrity of the testing process including the reporting of the test results to the Commission.

(b) Any violation of this provision shall be documented and reported to the Commission's Executive Secretary in writing. The Executive Secretary shall then conduct an immediate investigation of the reported violation(s).

(c) When the Commission finds that a violation of Section (4) of this rule has occurred, the Commission shall impose one or more of the following sanctions:

1. Declare the applicant has failed the Basic Ability Test;
2. Declare the applicant ineligible to apply for employment or appointment as a law enforcement officer or correctional officer for a period of five years;

3. Deny certification by the Commission;
4. Take action to revoke any currently held certification obtained as a result of falsification or fraud.

Author: R. Alan Benefield, Executive Secretary

Authority: Code of Ala. 1975, §§36-21-40 et seq.

Effective Date: September 29, 1983. Amended: July 17, 2000. Amended: December 8, 2006. Amended: September 12, 2014. Amended: September 22, 2017.

~~**RULE 650-X-2-.04 Physical Qualifications.** The applicant shall be certified on APOST Form Number 3, by a licensed physician, designated by the appointing authority, as in good health and physically fit for the performance of the duties of a law enforcement officer.~~

RULE 650-X-2-.04 PHYSICAL EXAMINATIONS AND PSYCHOLOGICAL EVALUATIONS.

1. **Physical Examinations.** Each applicant shall submit to a complete physical examination conducted by a licensed Medical Doctor (M.D.), a licensed Doctor of Osteopathic Medicine (D.O.), or by a Certified Registered Nurse Practitioner (CRNP) or a Physician's Assistant (P.A.) who is licensed and duly authorized by state statute to conduct said physical examinations. The appointing authority shall designate one of the above-named health care professionals to conduct the physical examination. The health care professional conducting the examination shall certify to the Commission on APOST Form Number 3A that the applicant is physically fit and in good health to participate in the rigorous training conducted at a law enforcement academy and is physically fit to perform the duties of a law enforcement officer.
2. **Psychological Evaluations.** Each applicant shall submit to a comprehensive psychological evaluation by a Licensed Behavioral Health Professional with experience in conducting Psychological Testing and Evaluations. The Behavioral Health Professional shall have experience working with the law enforcement community. The report of the examining professional shall state whether the applicant is recommended or not recommended for employment/appointment as a law enforcement officer. The examining professional shall complete and submit to the Commission APOST Form Number 3B.

Should the report of the examining professional provide a recommendation other than "Recommended for employment/appointment as a law enforcement officer," and the employing agency submits to the Commission an Application for Certification of the individual notwithstanding said recommendation, then the employing agency must provide documented, supplemental information to the Commission to support and validate the fitness of the applicant to be certified as a law enforcement officer.

- (a) The psychological evaluation administered to law enforcement officers must meet the approval of the Commission.
- (b) An applicant who fails to receive a positive assessment of his or her psychological evaluation is not eligible for employment/appointment for a period of one (1) year. The applicant is not exempt from Rule 650-X-2-.01.

Author: R. Alan Benefield, Executive Secretary

Authority: Code of Ala. 1975, §§36-21-40 et seq.

Effective Date: September 29, 1983. Repealed and Replaced: June 12, 1995. Amended: May 9, 1997. Amended: September 12, 2014. Amended: September 22, 2017. Amended: November 18, 2020.

RULE 650-X-2-.05 Character.

- (1) The applicant shall be a person of good moral character and reputation;
 - (2) Conviction of any felony pursuant to any state or federal law shall be a complete and absolute bar to certification, employment, appointment, or approval as a law enforcement officer.
 - (a) The existence of a pardon does not nullify a conviction for the purpose of this rule.
 - (b) An applicant having been convicted, pleaded guilty or nolo contendere to any felony pursuant to state or federal law is not eligible for certification, employment, appointment, or approval as a law enforcement officer, notwithstanding suspension of sentence or withholding of adjudication.
 - (c) Conviction of any conduct, including by a plea of guilty or nolo contendere, in any other jurisdiction that would have constituted a felony in Alabama and been punishable by a sentence exceeding one year in Alabama shall be a complete and absolute bar to certification, employment, appointment, or approval as a law enforcement officer, notwithstanding suspension of sentence, withholding of adjudication, or the existence of a pardon.
 - (d) An applicant shall disclose and produce to the Commission, any expunged record of any arrest, regardless of the disposition of the case. For the purpose of certification and regulation of law enforcement and correctional officers the Commission shall have access to any expunged records sealed or archived.
 - (3) An applicant or certified law enforcement or correctional officer who, as a defendant in any criminal or civil case enters into a plea or other agreement approved by the Court presiding over any said criminal or civil matter, to surrender his/her APOSTC certification or to never work again in law enforcement or corrections shall not be eligible for certification, re-certification, employment, appointment, or approval as a law enforcement or correctional officer. The Commission will revoke the certification of any person so situated. For the purposes of this Rule, approval by the presiding Court shall include express approval in an order or docket entry

or implied approval evidenced by the dismissal of said criminal or civil case conditioned on such agreement. The existence of a pardon on said criminal conviction shall not have any effect on the eligibility of a person so situated to be certified, re-certified, employed, appointed, or approved as a law enforcement or correctional officer, except a subsequent court order by the Court presiding over said criminal or civil case declaring said agreement void ab initio.

(4) Conviction of a misdemeanor pursuant to any municipal, state or federal law shall not automatically disqualify a person as a law enforcement officer. Such a conviction may be considered as a factor among several in evaluating fitness as a law enforcement officer, which factors shall include but not be limited to the nature and gravity of the offense or offenses, the time that has passed since the conviction and/or completion of the sentence and the nature of the job held or sought and such other factors as to affect the applicant's character. In the case of a misdemeanor conviction, involving a guilty plea or plea of nolo contendere, involving force, violence, moral turpitude, perjury, or false statements, notwithstanding suspension of sentence or withholding of adjudication, results of psychological testing shall also be considered as a factor in considering the applicant's fitness as a law enforcement officer.

~~(a) The psychological test administered to law enforcement officers will be approved by the Commission.~~

~~(b) At the request of the agency, and at the expense of the applicant or agency, a complete comprehensive psychological evaluation may be approved for an applicant who fails the psychological test. This complete comprehensive psychological evaluation will be administered by an agency selected by the Commission and must be given immediately after the failure of the first test.~~

~~(c) The results of the psychological test will be furnished to the Commission. The psychological test results must include a statement of whether or not the person is recommended for law enforcement.~~

~~(d) If an applicant fails the psychological test, he/she must wait one year to be eligible to submit a new application package requesting to attend the academy. This does not exempt the applicant from Rule 650-X-2-.01.~~

(5) Adjudication as a youthful offender or juvenile shall not be considered as a conviction for the purpose of these Rules.

(6) Any person who is prohibited by state or federal law from owning, possessing, or carrying a firearm, including but not limited to a pistol, handgun, rifle or shotgun, shall not be employed or certified as a law enforcement officer.

(7) Any person who is required to register as a convicted sex offender as defined in Title 15-20A-5, Code of Ala. 1975, as amended, shall not be employed or certified as a law enforcement officer.

(8) The arrest of any certified law enforcement officer, provisionally appointed law enforcement officer, or applicant, for any felony or misdemeanor offense shall be immediately reported to the Commission by the employing agency, arresting agency, and the law enforcement officer. The final disposition, including a copy of the case action summary, shall be immediately provided to the Commission by the employing agency, arresting agency, and the law enforcement officer regardless of finding. Any applicant for employment and/or appointment as a law enforcement officer, whether previously certified or non-certified, who has criminal charges pending before any court, is subject to court-ordered probation or is the subject of a protection order issued by a court of competent jurisdiction, shall not be employed or appointed as a law enforcement officer until any/all criminal charges are adjudicated and the individual is released by the court from any probation orders and/or protection orders. Upon adjudication and/or release as specified herein, a Character Review may be required to determine eligibility for employment/appointment.

(9) Applicants who falsify their application are ineligible for employment as a law enforcement officer and they are ineligible to attend the academy for certification as a law enforcement officer. Applicants who are determined to have falsified their applications are barred from employment or certification as a law enforcement officer for two (2) years.

(10) No law enforcement officer, either certified or provisionally appointed, shall knowingly and willfully provide false or misleading information to the Commission or any of its agents.

(11) No law enforcement officer shall knowingly and willfully violate the Rules and Regulations of the Commission.

(12) Any law enforcement officer who knowingly and willfully provides false or misleading information to the Commission or its agents, or who knowingly and willfully violates the Rules and Regulations of the Commission, shall be subject to having their Certification suspended or revoked by the Commission.

Author: R. Alan Benefield, Executive Secretary

Authority: Code of Ala. 1975, §§36-21-40 et seq., Act No. 2014-292.

Effective Date: September 29, 1983. Repealed and Replaced: June 12, 1995. Amended: March 11, 1999. Amended: June 19, 2002. Amended: December 8, 2006. Amended: June 16, 2009. Amended: September 12, 2014. Amended: September 22, 2017. Amended: May 27, 2020. Amended: November 18, 2020.

RULE 650-X-2-.06 Applicants To Be Citizens. The applicant must be a citizen of The United States.

Author: R. Alan Benefield, Executive Secretary

Authority: Code of Ala. 1975, §§36-21-40 et seq.

Effective Date: September 29, 1983. Amended: September 12, 2014. Amended: September 22, 2017.

RULE 650-X-2-.07 Discharge From Armed Services. If an applicant has been a member of the armed forces of The United States, each and every discharge must be under honorable conditions, and appropriate documentation provided.

Author: R. Alan Benefield, Executive Secretary

Authority: Code of Ala. 1975, §§36-21-40 et seq.

Effective Date: September 29, 1983. Amended: March 11, 1999. Amended: September 12, 2014. Amended: September 22, 2017.

RULE 650-X-2-.08 Driver's License. The applicant must have a valid Driver's License.

Author: R. Alan Benefield, Executive Secretary

Authority: Code of Ala. 1975, §§36-21-40 et seq.

Effective Date: September 29, 1983. Amended: September 12, 2014. Amended: September 22, 2017.

RULE 650-X-2-.09 Application Package Required.

(1) Each applicant for certification as a law enforcement officer shall submit a complete application package in the form prescribed by the Commission and provided by the Executive Secretary. An incomplete application will not be processed. An application which appears to be falsified or contains false information will be denied.

(2) Documentation. All documents listed below must be received by the Executive Secretary before an application package will be processed.

(a) Each applicant shall complete an electronic application. All required paper documents shall be printed or typewritten. All documents must be completed fully. Incomplete electronic applications and paper documents will not be processed and will be returned to the employing agency.

~~(b) Certification by a licensed physician (APOST Form Number 3) that the applicant is physically able to participate in the required law enforcement training program.~~

(b) Each applicant shall comply with the requirements of RULE 650-X-2-.04 PHYSICAL EXAMINATIONS AND PSYCHOLOGICAL EVALUATIONS and shall submit APOST Forms Number 3A and 3B.

(c) Each applicant shall submit an affidavit (APOST Form Number 2) certifying that he/she meets all requirements for employment and certification as a law enforcement officer under the provisions of Title 36-21-46, Code of Ala. 1975.

(d) Each applicant shall submit documents which reflect that the applicant meets all requirements of this chapter.

(e) Each applicant shall submit two APOST ORI fingerprint cards.

(f) Each applicant shall submit a release of information. (APOST Form Number 4).

Author: R. Alan Benefield, Executive Secretary

Authority: Code of Ala. 1975, §§36-21-40 et seq.

Effective Date: September 29, 1983. Amended: June 12, 1995. Amended: May 9, 1997.

Amended: September 12, 2014. Amended: September 22, 2017.

Amended: November 18, 2020.