
1001. Definitions

[“Academy Coordinator” through “Commuter Trainee”...continued]

“Course Decertification” is the act of removing a course from the catalog of certified courses for reasons specified in Regulation 1057.

“Course Suspension” is the act of denying a presentation request for a course for reasons specified in Regulation 1057. While the course is suspended, it may remain in the catalog of certified courses until the conditions supporting the suspension are resolved.

[“Department or Participating Department” through “Web-Based Training (WBT)”
...continued]

Authority cited: Sections 13506 and 13510.3, Penal Code.

Reference: Sections 13503, 13507, 13510, 13510.1, 13510.3, 13510.5, and 13523, Penal Code.

1057. Denial of Course Certification/Suspension/Decertification

An action to deny certification, or to suspend or decertify a course may be taken by an Assistant Executive Director when: ~~Courses may be decertified by action of the Commission when:~~

- (a) There is no current demonstrated need for the course set forth in Regulation 1052 (a)(b);
or
- (b) There is no longer a demonstrated need for the course; or
- (c) There is a failure to comply with the requirements set forth in Regulations 1052-1055; or
- (d) There are other ~~causes~~ reasons warranting denial of
certification/suspension/decertification as determined by the Commission.

Authority cited: Sections 13503 and 13506, Penal Code.

Reference: Section 13503(c), Penal Code.

1058. Appeals Process

(a) Any action to deny certification, or to suspend or decertify a course
certification/decertification decision may be appealed to the POST Executive Director.
The appeal, and all relevant ~~course~~ documentation the appellant believes supports the appeal,
must be submitted in writing and received by the Executive Director within 30 45 calendar
days of the Assistant Executive Director's notification of denial of certification, suspension or
decertification, date of the certification/decertification notice.

Within ~~30~~ 45 calendar days of receiving the appeal, the Executive Director shall respond to the appellant in writing with a decision affirming, reversing or modifying the decision of the Assistant Executive Director, and provide the ~~and the~~ reasons for the decision.

(b) **The Executive Director's decision may be appealed to the Commission.** The appeal, and all relevant ~~course~~ documentation the individual appellant believes supports the appeal, must be submitted in writing and received by ~~to~~ the Commission at POST within ~~30~~ 45 calendar days of the date of the Executive Director's decision.

Appeals received at least 45 calendar days prior to the next scheduled Commission meeting will be heard at that meeting. Appeals received with less than 45 calendar days remaining prior to the next scheduled Commission meeting will be heard at a subsequent meeting. The Commission shall notify the appellant of the date, time, and location of the hearing within 10 calendar days of the receipt of the appeal to by the Commission. ~~The appellant or appellant's designated representative(s) shall have the right to present evidence at the hearing.~~

At an appeal hearing, the burden of proof is on the appellant to demonstrate to the Commission that error was committed by POST staff in its decision. (Reference PAM Section D-16 for Commission Appeals Process)

The Executive Director shall mail or otherwise deliver the Commission's decision to the appellant within ~~40~~ 15 business days following the receipt of the Commission's written decision.

[1058(b) through 1060... continued]

Authority cited: Sections 13503 and 13506, Penal Code.
Reference: Section 13503(c), Penal Code.

Commission Procedure D-16, Appeals of Denial of Certification/Suspension/Decertification of Training Courses

D-16-1 Appeals Process

At an appeal hearing, the burden of proof is on the appellant to demonstrate to the Commission that error was committed by POST staff in its decision. Accordingly, the appellant will present its appeal first, followed by a presentation by POST staff. The appellant or the appellant's representative is permitted to reserve time to use in rebuttal, and staff is permitted to reserve time as well if it so desires. The Commission will have a certified court reporter present to transcribe all proceedings in connection with the hearing.

Each side's presentation should be no more than 30 minutes in length. Additional time may be requested and granted at the sole discretion of the Chair of the Commission, if the Chair believes the request to be appropriate and warranted under the circumstances.

The formal rules of evidence do not apply at the hearing. The parties' submissions will primarily be in the form of written documents, which may include witness statements. Any witness statements or other submissions may be, but are not required to be, under oath. While the documents and evidence should be exchanged by the parties in advance of the hearing, the Commission will not refuse to consider any evidence offered at the hearing and the appellant may produce evidence at that time. However, it is helpful to the Commissioners to have the opportunity to consider documentary evidence in advance, considering the time restrictions inherent in public meetings. All such materials, including any binders of materials the appellant wishes to present to the Commissioner's for consideration, should be delivered to the Commission's office at least 20 business days prior to the hearing.

There is no need to formally stipulate to the introduction of any documents at the hearing and no need to formally move items into evidence; any items offered, including the pre-hearing submissions, will be considered and given the weight believed by the Commission to be appropriate based upon the particular evidence. The Commission may grant a continuance if requested if either POST staff or the appellant introduces evidence that has not previously been provided to the other party.

The formal presentation before the Commission during the appeal is normally more in the nature of a presentation or summary of the parties' evidence, an argument as to the application of that evidence to the applicable standard, and a request for a particular decision by the Commission

Following the parties' presentations, and upon submission of the matter to the Commission for deliberation, the Commission will deliberate in closed session and determine whether the Executive Director's decision will be affirmed, reversed, or modified. When the Commission has completed its deliberations, its written decision shall be issued to the Executive Director within 15 business days.