

Executive Director Robert Stresak,

Once again thank you for writing me back promptly. I understand rules are rules. If POST allows me to take the requalification course a second time, they would have to let many others take it again also. Last week I found a letter in my safety deposit box that I had forgotten dated 2008 from Chief Basic Training Bureau Frank G Decker. The letter congratulates me for successfully completing the Basic waiver process on December 19, 2008. That the waiver is valid for three years from this date, and that I have three years to be appointed as peace officer in California. I just found out from your two letters that my waiver was valid till December 19, 2014, not three years from December 19, 2008 as was stated on the letter from 2008. Also, in the spring of 2014 I interviewed for department of ABC and informed them I had an expired POST certificate based on the letter I received from POST and from a phone call I made to POST inquiring about my certificate. In June 2014, the department of ABC emailed POST Regional Training Consultant Karen Lozito and informed her of my police background and POST waiver in 2008. The department then asked her if I would have to attend a RBC or a requalification course again. The department was told that I would have to attend a RBC again. They were not informed that if I was hired before December 19, 2014 that I did not have to go to the academy because of the waiver process I completed. I was never able to use my six year exception because I always thought it was only valid for three years. I received a job offer from ABC January 2015, just a few weeks after my waiver expired

→ SEE ATTACHMENT B

Attached is a copy of the letter I was referring to that made me believe I only had three years to obtain a position in law enforcement with the waiver process. Due to this letter, I nor any other agency knew I had an active waiver from POST till December 2014. Also attached is the email that Karen Lozito had given to ABC regarding my status. I hope these letters shows you that I believed that I had a timeframe of only three years and not the six years as POST stated. If I knew I had a valid waiver till December 2014, I would have applied to a lot more agencies.

I wanted to know, based on the fact that the department and I did not know I had a valid waiver till December 19, 2014, because of the information I think we mistakenly received on two separate occasions by two different individuals, can POST please grant me permission to try to seek employment with a valid waiver, with ONLY ABC once again. When I was let go by them, they said if I have a valid POST certificate they would hire me again. If the department knew I had a valid waiver in December 2014, I am confident they would have hired me before the expiration date and went straight to their field training program instead of the academy. We have spent a month discussing this matter and I am truly sorry for bringing these letters upon you. I am truly sorry for any inconvenience. This will be my last attempt at this matter. You will not hear from me again unless it is requested.

Sincerely



Vikas Kurian



EDMUND G. BROWN JR.
GOVERNOR

KAMALA D. HARRIS
ATTORNEY GENERAL

COMMISSION ON
PEACE OFFICER STANDARDS AND TRAINING

September 8, 2015

Vikas Kurian
[REDACTED]

**RE: RESPONSE TO SECOND APPEAL AND INITIAL FINDING REGARDING
EXTENSION OF REQUALIFICATION COURSE ELIGIBILITY**

Dear Mr. Kurian,

Your request for exemption to POST regulation has been reviewed extensively, including several levels of appeal with two separate formal responses.

Pursuant to POST Regulation 1058, the Executive Director's decision may be appealed directly to the Commission. Your appeal, and all relevant documentation must be submitted in writing and received by the Commission at POST within 45 calendar days of the date of the Executive Director's decision, and the burden of proof is on the appellant to demonstrate that error was committed by POST staff in its decision. The appeal process has a specific timeline for consideration, as specified in Regulation 1058 and Procedure D-16, which may be accessed on the POST Website at www.post.ca.gov. I have attached copies of these regulations for your convenience.

The POST Commission meetings are held pursuant to the Bagley-Keene Open Meeting Act, which requires the meeting to be conducted in public. As such, matters regarding the circumstances of your Basic Course Waiver (BCW) application and finding of ineligibility will be discussed in an open forum, with recorded minutes which are public documents.

The next scheduled Commission dates are October 21-22, 2015, in San Diego, and February 24-25, 2016, in Los Angeles. You may send formal correspondence to:

Commission on Peace Officer Standards and Training
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630
Attention: Commissioner Chair

You have exhausted all levels of appeal directly to POST staff with regard to your request for an exemption regarding regulation as it relates to the BCW process.

Continued requests for review of the same situation are redundant; therefore, unsolicited requests for further response regarding your BCW eligibility that have been previously addressed will no longer be addressed by POST staff.

Sincerely,


ROBERT A. STRESAK
Executive Director

RAS:sl

Attachments

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Search the POST Administrative Manual:

Section B - Regulations
Regulation 1058

Appeals Process

1058, Appeals Process

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

Within 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 reasons for the decision.

(b) The Executive Director's decision may be appealed to the Commission. The appeal, and all relevant documentation the appellant believes supports the appeal, must be submitted in writing and received by the Commission at POST within 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 by the Commission.

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 notify the appellant in writing of the Commission's decision within 15 calendar days following the conclusion of the hearing.

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Section D - Training Procedures Commission Procedure D-16

Appeals of Denial of Certification/Suspension/Decertification of Training Courses

D-16 Appeals Process

Purpose

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 Commission'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.

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