

State of California Department of Justice

MEMORANDUM

To : The POST Commission

Date: February 4, 2016

From : ROBERT A. STRESAK 
Executive Director
Commission on Peace Officer Standards and Training

Subject: Report on Appeal to Commission by Mr. Vikas Kurian

Issue:

Should the Commission grant the appeal by Mr. Vikas Kurian regarding an extension of the "Six-Year Exception" codified in Commission Regulation 1008(b)(2), which mandates that an individual who successfully completed a Regular Basic Course (RBC), Specialized Investigators' Basic Course (SIBC), or the Basic Course Waiver Process (BCW) on or after July 1, 1999, but who never served in a California peace officer/Level I reserve officer position for which a Regular or Specialized Investigators' Basic Course is required, may requalify by successfully completing a POST-certified Requalification Course one time within six years from the date of basic course or waiver process completion?

Background:

The POST-certified Regular Basic Course (RBC) is the training requirement for peace officer candidates in California seeking employment as a city police officer, sheriff's deputy, marshal, district attorney investigator, campus police officer, park police, and Level I reserve peace officer.

Out-of-state individuals that have completed training comparable to the California RBC may participate in the POST Basic Course Waiver Process pursuant to Commission Regulation 1008(a). This process constitutes a waiver of attendance to the RBC, not a waiver of training requirements, and once granted allows the individual to apply for peace officer positions in California (see **Attachment A**).

This process includes four steps:

1. Application submittal/self assessment
2. POST Training Evaluation
3. Basic Course Waiver Examination (BCWE)

The BCWE includes both written and skill components. The written component consists of a multiple-choice examination that measures knowledge of the Regular Basic Course curriculum. The skills component consists of an assessment of critical skills (firearms, and arrest and control techniques). Both components can be satisfied by completing either the 136-hour minimum Requalification Course or by testing.

4. Waiver Issuance

The waiver letter granted by POST waives the required completion of a California POST-certified Regular Basic Course and is valid for three years.

On December 19, 2008, Mr. Vikas Kurian received a Basic Course Waiver (BCW) under the authority of Regulation 1008. Kurian's BCW was based on his successful passage of the equivalency which included an analysis of his training and service as a peace officer in another state, as well as successful demonstration of knowledge and skills competencies via completion of the POST certified 136-hour Requalification Course. Pursuant to POST Regulation 1008, the holder of a BCW has a three-year window of opportunity to be appointed as a peace officer (refer to **Attachment B**).

After three years, if the holder has not been appointed as a peace officer, he/she may take the POST Requalification Course (136 hour minimum) one more time within six years from the date of waiver completion.

The Requalification Course content includes curricula of the Regular Basic Course which change rapidly, address critical manipulative skills related to officer safety or civil liability in areas which persons are most likely to experience reduced proficiency and addresses related critical subjects. Presentation methodology includes lectures, practical exercises, demonstrations, and instructional activities. This course requires students to demonstrate techniques that require physical ability and agility. Student understanding of cognitive material is evaluated by the administration of a comprehensive written examination. Exercise tests are administered in manipulative/psychomotor areas.

After completion of the Requalification Course a second time, the holder must be appointed as a peace officer within the six year timeframe. Commission Regulation 1008(b)(2)(B)1 specifies that after six years, a BCW holder must successfully complete the appropriate full Regular Basic Course (RBC – 664 hour minimum) or Specialized Investigator Basic Course (SIBC - 591 hour minimum) to requalify, regardless of when the Requalification Course was completed within the six years if he/she never was appointed as a peace officer.

On June 16, 2014, a background investigator from the California Department of Alcoholic Beverage Control (ABC) contacted POST via email to inquire whether Kurian (who was a peace officer candidate) would need to attend a RBC or was eligible to attend the Requalification Course, which is significantly shorter (136 hour minimum). Based on the information obtained during the inquiry, POST staff advised ABC that Kurian would need to attend a full RBC. On or about that same time, according to Kurian, he placed a telephone call to an unknown POST staff member, and was advised the same answer to that particular inquiry. Further investigation revealed that the POST staff member(s) may have received insufficient information for the inquiry, which may have led to inaccurate information provided in the response. Kurian was eligible to attend the Requalification Course from the date of ABC's inquiry - June 16, 2014 through December 19, 2014 (see **Attachment C**).

On December 19, 2014, Kurian's six-year window of opportunity to obtain peace officer employment based on the initial completion of the BCW expired.

On March 2, 2105, ABC hired Kurian and sponsored him in the South Bay Regional Public Training Consortium Basic Academy (hereafter referred to as Academy). Several months later, Kurian failed an Arrest and Control exercise test, followed by the failure of the second attempt of the exercise test. Pursuant to the mandates of Commission Procedure D-1, Kurian was dismissed from the Academy. Kurian subsequently resigned from ABC.

On July 17, 2015, Kurian sent a complaint regarding his dismissal from the Academy to POST. POST staff had the presenter conduct an investigation pursuant to POST Internal Policy O-35. POST staff reviewed the matter and determined the Academy's actions regarding the dismissal were compliant with Commission Regulation. POST formally advised Kurian via a letter (see **Attachments D and E**).

On July 23, 2015, Kurian sent the first of several letters/e-mail inquiries, which included additional subsequent appeals to initial responses, to POST staff requesting an extension of the six-year time frame required by Regulation, in order to allow him to attend a Requalification course instead of a full Regular Basic Course. Kurian based his request on his belief that POST staff's advice to the ABC background investigator (as well as Kurian via phone call) of the need for Kurian to attend a RBC caused Kurian to not consider other employment/training alternatives prior to the expiration of his six year window on December 19, 2014. Kurian also requested consideration be given to him for an exception to the regulations due to his difficulty in obtaining law enforcement employment as a result of the unstable economy, as well as his personal belief that he has the potential to become a good peace officer.

POST staff formally replied to Kurian, as well as via numerous email responses, explaining that there was no existing mechanism in Regulation to afford the extension he requested, and that he would need to complete a full Regular Basic Course (RBC) or Specialized Investigators' Basic Course (SIBC) if he desired to qualify for employment as a California peace officer for which the RBC or SIBC is required. The decision was based on that fact that a significant deviation from law was outside the legal authority of POST staff as well as the Executive Director. The decision was reaffirmed in two additional formal letters of response to his appeals (see **Attachments F, G, H, I, J, and K**).

Attachment L is Kurian's narrative appeal to the Commission and POST's response letter.

A summary of the above information is provided in a timeline format (see **Attachment M**).

Recommendation:

The appropriate action would be to hear the appeal of Vikas Kurian and render a decision consistent with the requirements of Commission Regulation 1058.

Attachments:

Attachment A – Commission Regulation 1008(a) – Basic Course Waiver

Attachment B - Kurian's 2008 Basic Course Waiver Issuance Letter

Attachment C – Email between Alcoholic Beverage Control and POST

Attachment D – South Bay Academy Dismissal Email and Kurian's Academy Grievance Document

Attachment E – POST's Response to Kurian's Academy Dismissal Investigation

Attachment F – Kurian's 1st Appeal Letter Regarding Extension of Requalification Course Eligibility
and POST's Response Letter

Attachment G – Kurian's 2nd Appeal Letter and POST's Response

Attachment H – Additional Information sent from Kurian

Attachment I – Kurian's 1st Email Response to POST Consultant Regarding Appeal

Attachment J – Kurian's 2nd Email Response to POST Consultant Regarding Appeal

Attachment K – Kurian's 3rd Appeal and POST Response

Attachment L – Kurian's Appeal to POST Commission and POST's Response

Attachment M - Timeline - Graph