

[Proposed regulation changes are presented in underline/strikeout format.]

11 CCR § 1953

§ 1953. Peace Officer Background Investigation.

(a) Government Code Mandate

Every peace officer candidate shall be the subject of a thorough background investigation to verify good moral character and the absence of past behavior indicative of unsuitability to perform the duties of a peace officer [Government Code section 1031(d)].

(b) Background Investigation Evaluation Criteria

The background and personal history sections of the Bias Assessment Framework [Regulation 1955(d)(4)] and the entire set of The POST *Background Investigation Manual: Guidelines for the Investigator* (2018) provides assistance in conducting background investigations. ~~The use of the manual is discretionary; except the POST Background Investigation Dimensions (Dimensions) herein incorporated by reference described in the manual - Integrity, Impulse Control/Attention to Safety, Substance Abuse and Other Risk-Taking Behavior, Stress Tolerance, Confronting and Overcoming Problems, Obstacles, and Adversity, Conscientiousness, Interpersonal Skills, Decision-Making and Judgment, Learning Ability, and Communication Skills - shall be considered in the conduct of every peace officer background investigation.~~ The *POST Background Investigation Manual: Guidelines for the Investigator* (2022) provides guidance in conducting background investigations. The use of the manual is discretionary, with the exception of the Dimensions.

(Regulation 1953(c) – (e)(4) continued...)

(5) Education Verification

(A) Every peace officer candidate shall meet one of the following minimum education requirements pursuant to Government Code section 1031(e):

1. Be a high school graduate of one of the following:

- a. A U.S. public school, or
- b. An accredited U.S. Department of Defense high school, or
- c. An accredited or approved public or nonpublic high school.

2. Pass the General Education Development (GED) test or other high school equivalency test approved by the State Department of Education that indicates high school graduation level.

3. Pass the California High School Proficiency Examination, or

4. Have attained a two-year, four-year, or advanced degree from an accredited college or university.

Any accreditation or approval required by this subdivision shall be from a state or local government educational agency using local or state government approved

accreditation, licensing, registration, or other approval standards, a regional accrediting association, an accrediting association recognized by the Secretary of the United States Department of Education, an accrediting association holding full membership in the National Council for Private School Accreditation (NCPSA), an organization holding full membership in AdvancED or COGNIA, an organization holding full membership in the Council for American Private Education (CAPE), or an accrediting association recognized by the National Federation of Nonpublic School State Accrediting Associations (NFSSAA).

(B) Proof shall consist of an official transcript or other means of verifying satisfactory completion of educational requirements deemed acceptable by POST. The document shall be an original, a certified copy, or a copy that includes a notation by the investigator that the original or certified copy was reviewed.

(6) Employment History Checks

(A) Every peace officer candidate shall be the subject of employment history checks through contacts with all past and current employers over a period of at least ten years, as listed on the candidate's personal history statement.

(B) Proof of the employment history check shall be documented by a written account of the information provided and source of that information for each place of employment contacted. All information requests shall be documented.

(7) Relatives/Personal References Checks

(A) Every peace officer candidate shall be the subject of reference checks through contacts and interviews with relatives, including former spouses, and personal references listed on the candidate's personal history statement. Additional references (e.g., secondary references), provided by the initial contacts, shall also be contacted and interviewed to determine whether the candidate has exhibited behavior incompatible with the position sought. Sufficient information shall be collected and reviewed to determine candidate suitability.

(B) Proof of reference checks shall be documented by written information showing that relatives and personal references identified by the candidate and additional references provided by the initial contacts were interviewed. Documentation shall include the identity of each individual contacted, the contact's relationship to the candidate, and an account of the information provided by the contact. All requests for information shall be documented.

(Regulation 1953(e)(8) – (f)(2)(E) continued...)

(g) Documentation and Reporting

(1) Background Narrative Report

The background investigator shall summarize the background investigation results in a narrative report that includes sufficient information for the reviewing authority to extend, as appropriate, a conditional offer of employment. The report shall reference the Background Investigation Dimensions and include any findings of biased behaviors and/or bias-relevant traits and attributes per the Bias Assessment Framework [Regulation 1953(b)]. The report, along with all supporting documentation obtained during the course of the background investigation, shall be included in the candidate's background investigation file. The supporting documents shall be originals or true,

current and accurate copies as attested to by the background investigator. The background investigation file shall be made available during POST compliance inspections.

(2) Retention

The background narrative report and supporting documentation shall be retained in the individual's background investigation file for as long as the individual remains in the department's employ. Additional record retention requirements are described in Government Code section 12946.

(3) Information Access

The narrative report and any other relevant background information shall be shared with the psychological evaluator [Regulation 1955(e)(3)]. This information shall also be shared with others involved in the hiring process, such as screening physicians, if it is relevant to their respective evaluations.

This information must be furnished to those conducting background investigations of peace officer candidates on behalf of other law enforcement departments except as specifically provided by statute (Government Code section 1031.1, Government Code section 6250 et seq, Labor Code section 1050, Labor Code section 1054, O'Shea v. General Telephone Co. (1987) 193 Cal. App 3d 1040). This information shall only be utilized for investigative leads and the information shall be independently verified by the prospective department to determine the suitability of the peace officer candidate.

Note: Authority cited: Sections 1030, 1031, 1031.2, 1031.3, and 1031.5, Government Code; Section 2267, Vehicle Code; and Sections 13503, 13506 and 13510, Penal Code. Reference: Sections 1029, 1030, 1031, 1031.2, 1031.3, 1031.5 and 12900 et seq., Government Code; Sections 2267 and 12500, Vehicle Code; Sections 13510 and 29805, Penal Code; and Title 18 Section 922(d)(9), US Code.

11 CCR § 1955

§ 1955. Peace Officer Psychological Evaluation.

(a) Government Code Mandate/Evaluator Requirements

Every peace officer candidate shall be evaluated to determine if the candidate is free from any emotional or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer [Government Code section 1031(f)], and to otherwise ensure that the candidate is capable of withstanding the psychological demands of the position.

(1) The psychological evaluation shall be conducted by either of the following:

(A) A physician and surgeon who holds a valid California license to practice medicine, has successfully completed a postgraduate medical residency education program in psychiatry accredited by the Accreditation Council for Graduate Medical Education, and has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued after completion of the psychiatric residency program.

(B) A psychologist licensed by the California Board of Psychology who has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued post-doctorate.

(2) The psychological evaluator (hereinafter referred to as "evaluator") shall be competent in the conduct of preemployment psychological screening of peace officers. The required areas of competence, ~~as are~~ defined in the *POST Peace Officer Psychological Evaluator Competencies (Competencies): Assessment, Clinical, Communication, Jurisprudence, Multicultural, Occupational, Procedural, Psychometric, and Standards*, are herein incorporated by reference. The Competencies are contained and defined in Chapter 3 of the *POST Peace Officer Psychological Screening Manual (201822)*.

(3) The evaluator must complete a minimum of 12 hours biennially of POST-approved continuing professional education per Commission Regulation 1955(b).

(4) The evaluator shall conduct the examination on behalf of and for the benefit of the employing department.

(b) Continuing Professional Education (CPE)

(Regulation 1955(b)(1) – (2)(G) continued...

(3) Evaluator CPE Requirement

(A) Effective July 1, 2019, All-evaluators must complete the POST-developed Peace Officer Psychological Screening Manual on-line exam prior to conducting preemployment psychological screening. ~~Incumbent evaluators must meet this requirement no later than July 1, 2019.~~

(B) Effective September 1, 2014, evaluators must complete 12 hours of POST-approved CPE every license renewal cycle. For partial cycles, CPE hours are prorated at .5 hours per month, based on the evaluator's license renewal date. The POST CPE requirement

must be met no later than the evaluator's license renewal date. Additional CPE hours above the 12 hour minimum do not count toward the next two-year cycle.

(C) The evaluator may satisfy no more than 75% [up to nine (9) hours] of the POST CPE requirement through independent learning that meets Regulation 1955(b)(1). Independent learning includes, but is not limited to, courses delivered via the Internet, including asynchronous training, CD-ROM, satellite downlink, correspondence, and home study.

(Regulation (b)(4) – (c) continued...)

(d) Psychological Screening Procedures and Evaluation Criteria

(1) The psychological screening procedures and evaluation criteria used in the conduct of the psychological evaluation shall be based on the peace officer duties, powers, demands, and working conditions as defined by the department. This information shall be provided to the evaluator, along with any other information (e.g., risk management considerations) that will allow the evaluator to make a psychological suitability determination.

(2) Every peace officer candidate shall be evaluated, at a minimum, against job-related psychological constructs herein incorporated by reference in the *POST Peace Officer Psychological Screening Dimensions* (Dimensions): Social Competence, Teamwork, Adaptability/Flexibility, Conscientiousness/Dependability, Impulse Control, Integrity/Ethics, Emotional Regulation/Stress Tolerance, Decision Making/Judgment, Assertiveness/Persuasiveness, and Avoiding Substance Abuse and Other Risk-Taking Behavior. The Dimensions are contained and defined in Chapter 4 of the *POST Peace Officer Psychological Screening Manual (201822)*.

(3) When evaluating a peace officer candidate for explicit and implicit bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation that might adversely affect the exercise of the powers of a peace officer, psychological evaluators shall use the Bias Assessment Framework, herein incorporated by reference, to assess biased behaviors, biased attitudes and bias-relevant traits and attributes.

(4) The POST Peace Officer Psychological Screening Manual (201822) provides guidance in the evaluation of peace officer candidates. The use of this manual is discretionary with the exception of the required Psychological Evaluator Competencies, and the Psychological Screening Dimensions, and the Bias Assessment Framework outlined in subsections 1955(a)(2) and, 1955(d)(2), and 1955(d)(3), respectively.

(e) Required Sources of Information for the Psychological Evaluation

The psychological evaluation shall include a review by the evaluator of the following sources of information prior to making a determination about the candidate's psychological suitability.

(1) Job Information

Job information shall consist of the peace officer duties, powers, demands, and working conditions provided by the department per subsection 1955(d)(1).

(2) Written Assessments

Written assessments shall consist of a minimum of two written psychological instruments. One of these instruments shall be designed and validated to identify patterns of abnormal behavior; the other instrument shall be designed and validated to

assess normal behavior. Both instruments shall have documented evidence of their relevance for evaluating peace officer suitability. Together, the instruments shall provide information about each candidate related to: (1) freedom from emotional and/or mental conditions that might adversely affect the exercise of the powers of a peace officer, and (2) psychological suitability per the POST Psychological Screening Dimensions [refer to subsection 1955(d)(2)].

The psychological assessments shall be interpreted using appropriate, authorized test publisher scoring keys. If mail-order, internet-based, or computerized test interpretations are used, the evaluator shall verify and interpret the individual results.

(3) Personal History Information

Personal history information includes the candidate's relevant work, life, and developmental history based on information collected during the background investigation [Regulation 1953(g)(3)]. This information may be augmented by responses on a personal history questionnaire collected as part of the psychological evaluation.

(4) Psychological Interview

A psychological interview shall be administered to each peace officer candidate subsequent to a review and evaluation of the results of the written assessments [Regulation 1955(e)(2)] and the candidate's personal history information [Regulation 1955(e)(3)]. Sufficient interview time shall be allotted to address all issues arising from the reviewed information and other issues that may arise during the interview.

(5) Psychological Records

Psychological records and relevant medical records shall be obtained from the candidate's treating health professional, if warranted and obtainable. This information may be provided by the candidate, or, with written authorization from the candidate (Civil Code section 56.11), may be obtained directly from the health professional.

(f) Psychological Evaluation Reporting Requirements

(1) Data from all sources of information shall be considered; the evaluator's determination shall not be based on one single data source unless clinically justified.

(2) The evaluator shall provide the department with a psychological suitability declaration that shall include the following information:

(A) The evaluator's printed name, contact information and professional license number,

(B) The name of the candidate,

(C) The date the evaluation was completed, and

(D) A statement, signed by the evaluator, affirming that the candidate was evaluated in accordance with Commission Regulation 1955. The statement shall include a determination of the candidate's psychological suitability for exercising the powers of a peace officer. Prior to appointment as a peace officer, the candidate must be determined to be psychologically suitable.

(3) The department shall maintain the psychological suitability declaration in the candidate's background investigation file; the declaration shall be available to POST during compliance inspections.

(4) Any additional information reported by the evaluator to the department shall be limited to that which is necessary and appropriate, such as the candidate's job-relevant functional limitations, reasonable accommodation requirements, and the nature and seriousness of the potential risks posed by the candidate. All information deemed

medical in nature shall be maintained as a confidential record, separate from the background investigation file.

(5) Information from the psychological evaluation may be provided to others involved in the hiring process, if it is relevant to their respective determinations of candidate suitability.

(g) Second Opinions

(1) A candidate who is found psychologically unsuitable has the right to submit an independent evaluation for consideration before a final determination of disqualification is made [2 California Code of Regulations section 11071(b)(2)]. Consideration should include determining whether the second opinion evaluator meets the requirements set forth in Government Code section 1031(f) and Regulation 1955(b).

(2) When a candidate notifies the department that s/he is seeking an independent opinion, the department shall make available the peace officer duties, powers, demands, and working conditions and the requirements specified in Commission Regulation 1955. Other information, such as specific procedures or findings from the initial evaluation, may be shared with the second-opinion evaluator at the discretion of the department. The means for resolving discrepancies in evaluations is at the discretion of the department, consistent with local personnel policies and/or rules.

Note: Authority cited: Sections 1031 and 1031.3, Government Code; Sections 13503, 13506 and 13510, Penal Code. Reference: Section 56.11, Civil Code; Sections 1031 and 1031.3, Government Code; and Section 13510, Penal Code.