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Article 4. Peace Officer Certification.

§ 1209. Notification of Completed Investigation, Officer Rights to Request Review, and Hearing Procedures.

11 CA ADC § 1209

- (a) Upon the completion of an investigation pursuant to Commission Regulation 1206, the division shall take the following steps:
- (1) If the division does not find reasonable grounds for revocation or suspension of a peace officer's certification, it shall take the appropriate steps to promptly make notification in writing to:
 - (A) The involved peace officer or designated representative, and
 - (B) The agency head that employs or employed the involved peace officer.
 - (2) If the division finds reasonable grounds for revocation or suspension of a peace officer's certification, it shall take the appropriate steps to promptly make notification in writing to the agency head that employs or employed the involved peace officer.
 - (3) The involved peace officer shall be served with the notice of suspension or revocation as provided for in Code of Civil Procedure Sections 415.10-415.40, or by other means agreed to by the involved peace officer (or their representative or employing agency, as appropriate) and commission, or as otherwise ordered by a court of competent jurisdiction. Service of subsequent documents or communications may be sent by mail, certified mail, or any other means of service authorized by the Code of Civil Procedure in civil actions.
 - (A) The notification shall include the following:
 1. A statement the investigation has been completed,
 2. A statement of determination and reasons,
 3. A detailed explanation of the decertification procedure, and
 4. The peace officer's rights to contest and appeal.
- (b) Upon notification the division has found reasonable grounds for suspension or revocation, the peace officer may file a request for review by the board and Commission on Request for Review of Peace Officer Certification, POST 2-359 (03/2022), herein incorporated by reference. The request for review shall be postmarked within 30 days of receiving written notification of intent to take action by the division.

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(1) If a request for review is not received, the peace officer certification shall be suspended or revoked, consistent with the division's determination, without further proceedings.

(2) The peace officer may voluntarily surrender their certification permanently by submitting a *Voluntary Surrender of Peace Officer Certification, POST 2-358 (03/2022)*, herein incorporated by reference:

(A) Voluntary permanent surrender of a certification shall have the same effect as revocation.

(B) A permanently surrendered certification cannot be reactivated.

(3) If a request for review is received, the board shall schedule a case for hearing, as soon as practical, to determine whether clear and convincing evidence exists.

(A) The peace officer shall be provided with a copy of all materials used by the division to render the decision.

(B) The board shall review the findings of the investigations presented by the division and shall make a recommendation on what action should be taken on the certification of the peace officer involved.

(C) The Commission shall review all recommendations by the board.

1. If the Commission determines the alleged misconduct rises to the level of suspension or revocation, the case shall be provided to the administrative law judge.

(c) Board and Commission Hearing Review Process

(1) The formal rules of evidence do not apply.

(2) The division shall present its findings to the board and Commission during their respective hearings.

(3) The peace officer or the peace officer's representative may present to the board and Commission during their respective hearings, written documentation, or oral arguments, if so desired.

(A) When feasible, the peace officer, or designated representative, shall be present at the hearing before the board and the Commission.

(B) During the presentation, no witness testimony or public comment are permitted.

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(C) Written documentation, which may include briefs, written statements, declarations or affidavits, or other relevant documentary evidence, must be submitted to the board or Commission 10 business days prior to the scheduled hearing.

1. The chair may permit additional written evidence or materials to be submitted and included as part of the record if based upon a showing of good cause as to why the materials were not submitted earlier in accordance with the requirements of this subsection.

(D) All documents submitted as part of the appeal shall be considered public record.

- (4) Each side's presentation should be no more than 30 minutes in length, inclusive of a rebuttal. Additional time may be requested and granted at the sole discretion of the chair of the board or the chair of the Commission if the chair believes the request to be appropriate and warranted under the circumstances.

- (5) Following the parties' presentations at their respective hearings, the board or Commission will render a decision.

Note: Authority cited: Sections 415.10-415.40, Code of Civil Procedure; Sections 13510.85, 13510.9, Penal Code. Reference: Sections 415.10-415.40, Code of Civil Procedure; Sections 13510.85, 13510.9, Penal Code.