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Article 4. Peace Officer Certification

§ 1205. Serious Misconduct.

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- (a) Serious Misconduct is defined as an act or acts, or an omission or omissions, demonstrating a lack of fitness to serve as a peace officer in the State of California. For purposes of this section, an act or omission demonstrating a lack of fitness to serve as a peace officer includes any act or omission in connection with the peace officer's public office, or otherwise, that a reasonable person with the same or similar training and experience would find to be unprofessional, unethical, unlawful, deceptive, or otherwise harmful or detrimental to the public or to the law enforcement profession, or that would tend to disrupt, diminish, or otherwise jeopardize public trust in the law enforcement profession, or that would tend to erode the trust or confidence of the public, or of public officials, in the person's ability to fairly, honestly, safely, ethically, and/or competently perform the duties of a law enforcement officer. Serious misconduct also includes, but is not limited to, the following:
- (1) Dishonesty relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting of, or investigation of misconduct by, a peace officer or custodial officer, including, but not limited to, false statements, intentionally filing false reports, tampering with, falsifying, destroying, or concealing evidence, perjury, and tampering with data recorded by a body-worn camera or other recording device for purposes of concealing misconduct. For purposes of this section, in considering whether a suspension or revocation of certification is proper, the Commission will consider the extent to which the dishonesty related to a material or significant fact in the context of the statement or omission alleged to be dishonest, and will also consider whether the dishonesty appears to have been done willfully or intentionally, with the intent to deceive.
 - (2) Abuse of power, including, but not limited to, intimidating witnesses, knowingly obtaining a false confession, and knowingly making a false arrest. For purposes of this subsection, in considering whether a suspension or revocation of certification is proper, the Commission will consider the extent to which the abuse of power was a knowing abuse of the power and authority of a public office.
 - (3) Physical abuse, including, but not limited to, the excessive or unreasonable use of force.
 - (4) Sexual assault is defined as the commission or attempted initiation of a sexual act by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For the purposes of this subsection, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

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- (5) Demonstrating bias on the basis of actual or perceived race, national origin, religion, gender identity or expression, housing status, sexual orientation, mental or physical disability, or other protected status in violation of law or department policy or inconsistent with a peace officer's obligation to carry out their duties in a fair and unbiased manner. This paragraph does not limit an employee's rights under the First Amendment to the United States Constitution.
- (6) Acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public.
- (7) Participation in a law enforcement gang. For the purpose of this paragraph, a "law enforcement gang" means a group of peace officers within a law enforcement agency who may identify themselves by a name and may be associated with an identifying symbol, including, but not limited to, matching tattoos, and who engage in a pattern of on-duty behavior that intentionally violates the law or fundamental principles of professional policing, including, but not limited to, harassing, or discriminating against any individual based on a protected category under federal or state antidiscrimination laws, engaging in or promoting conduct that violates the rights of other employees or members of the public, violating agency policy, the persistent practice of unlawful detention or use of excessive force in circumstances where it is known to be unjustified, falsifying police reports, fabricating or destroying evidence, targeting persons for enforcement based solely on protected characteristics of those persons, theft, unauthorized use of alcohol or drugs on duty, unlawful or unauthorized protection of other members from disciplinary actions, and retaliation against other peace officers who threaten or interfere with the activities of the group.
- (8) Failure to cooperate with an investigation into potential police misconduct, including an investigation conducted pursuant to this chapter. For purposes of this paragraph, the lawful exercise of rights granted under the United States Constitution, the California Constitution, or any other law shall not be considered a failure to cooperate.
- (9) Failure to intercede when present and observing another peace officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable peace officer under the circumstances, taking into account the possibility that other peace officers may have additional information regarding the threat posed by a subject.