Chapter 139-07 WAC
CONDITIONS OF EMPLOYMENT

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WAC

139-07-010 Conditional offers of employment.
139-07-020 Background information.
139-07-030 Psychological examination.
139-07-040 Polygraph examination or other truth verification assessment.

WAC 139-07-010 Conditional offers of employment. (1) Any applicant who has been offered a conditional offer of employment as a certified officer must submit to a background investigation to determine suitability for employment.

(2) This includes certified officers whose certification has lapsed as a result of a break in service except those recalled to active military service.

(3) Hiring agencies may not make a nonconditional offer of employment prior to an applicant's completion of the background check.

(a) Hiring agencies shall verify in writing to the commission that they complied with all background check requirements prior to making any final offer of employment; and

(b) Responsibility for all background verification lies with the hiring agency.

(i) Upon completion of the background check, the hiring agency must certify that the background check has been satisfactorily completed and no disqualifying information has been found, including any conduct meeting the criteria requiring denial or revocation of certification set forth in RCW 43.101.105(2).

(ii) At its discretion, the commission may review and audit background checks for compliance with standards established by applicable statutes and rules.

(iii) The hiring agency has the duty to evaluate information obtained in a background check and assure that the applicant meets certification standards of RCW 43.101.105 (2) and (3).

(4) Reserve officers shall submit to the same background requirements as certified officers.

[Statutory Authority: RCW 43.101.080. WSR 25-13-046, s 139-07-010, filed 6/11/25, effective 7/12/25. Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-07-010, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 13-02-060, § 139-07-010, filed 12/27/12, effective 1/27/13; WSR 10-07-037, § 139-07-010, filed 3/10/10, effective 4/10/10.]

WAC 139-07-020 Background information. (1) Hiring agency background checks must include the following records and information for new applicants:

(a) Criminal history;

(b) National decertification indices or data banks;

(c) Commission records including employment history and certification status;

(d) All disciplinary records by any previous law enforcement or correctional employer, including complaints or investigations of misconduct, to include the outcome of any investigation regardless of the result, and the reason for separation from employment. Previous law enforcement or corrections employers must provide this information,

including the reason for separation from employment with the agency, within 30 days of receiving a written request from the agency conducting the background check;

(e) Verification from the local prosecuting authority in any jurisdiction in which the applicant has served as to whether the applicant is on any impeachment disclosure lists;

(f) Inquiry into whether the applicant has any past or present affiliations with extremist organizations, as defined in commission policy;

(g) A review of the applicant's social media accounts;

(h) Verification of citizenship status as either a citizen of the Unites States of America or a lawful permanent resident;

(i) A psychological examination and recommendation administered by a qualified professional pursuant to chapter 18.71 or 18.83 RCW, in compliance with standards established in commission policy per WAC 139-07-030;

(j) A polygraph or equivalent assessment administered by a qualified professional with appropriate training and in compliance with standards established in commission policy per WAC 139-07-040; and

(k) Any basis for disqualification listed under RCW 43.101.105 (2) or (3).

(2) An applicant, including new hires and in-state laterals, may be offered employment by more than one agency. The background results may be shared with more than one agency under the following circumstances:

(a) The hiring agency which initiated the background investigation agreed to share the results of the investigation in full with another hiring agency;

(b) The applicant signed a release permitting another hiring agency to have the report;

(c) The background investigation was completed within six months of the request to share records; and

(d) The job analyses of both agencies are substantially similar.

(3) Prior to a potential officer's registration into an academy, the hiring agency shall certify to the commission that the agency has completed the background check, no information has been found that would disqualify the applicant from certification, and the applicant is suitable for employment as an officer.

(4) Backgrounds, older than six months, of an officer shall be considered invalid for the purpose of RCW 43.101.080(15) and 43.101.095(2).

[Statutory Authority: RCW 43.101.080. WSR 23-01-086, § 139-07-020, filed 12/16/22, effective 1/16/23. Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-07-020, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080 and 2018 c 32. WSR 18-19-066, § 139-07-020, filed 9/17/18, effective 10/18/18. Statutory Authority: RCW 43.101.080. WSR 13-02-060, § 139-07-020, filed 12/27/12, effective 1/27/13; WSR 10-07-037, § 139-07-020, filed 3/10/10, effective 4/10/10.]

WAC 139-07-030 Psychological examination. (1) The psychological examination shall be administered by a qualified professional who is a psychiatrist licensed in the state of Washington pursuant to chapter 18.71 RCW or a psychologist licensed in the state of Washington pursuant to chapter 18.83 RCW.

(a) The examiner shall be trained and experienced in psychological testing, test interpretation, psychological examination techniques, and the administration of psychological examinations specific to law enforcement or corrections agencies;

(b) Agencies should confirm with the Washington state department of health that the examiner is in good standing;

(c) If the examiner has less than one year experience in psychological examination for public safety, then they shall be supervised by an examiner with at least two years' experience in psychological examination for public safety;

(d) The examiner shall be trained and knowledgeable in issues regarding discrimination, implicit and explicit bias, and police-community relations;

(e) The examiner shall be trained and knowledgeable in issues of posttraumatic stress and traumatic brain injury;

(f) The examination shall be based upon attributes considered most important for effective performance as an officer; such attributes may be identified from a job analysis and data provided by the hiring agency. Attributes should include self and emotional regulation, decision making and judgment, conflict management, stress tolerance, dominance vs. passivity, and other interpersonal and psychological characteristics that allow for insight to an individual's potential to adequately perform the essential duties of an officer and to determine what, if any, risk factors exist in the applicant's profile based on objective examination results; and

(g) The examination report, including all examination materials and documentation used to complete the examination report, shall be maintained in a manner consistent with applicable confidentiality, records retention, and public disclosure laws and rules.

(2) Psychological examination reports older than six months shall be considered invalid for the purpose of RCW 43.101.080(15) and 43.101.095(2).

(3) The examiner shall determine the psychological suitability of the applicant by an examination of whether they are free from job-relevant mental and emotional impairments including, but not limited to, psychopathology, personality disorders, and inappropriate behavior patterns.

(4) The sole purpose of the psychological examination under this chapter is compliance with RCW 43.101.080(15) and 43.101.095(2) and shall not be used for any other purpose.

(5) It is the responsibility of the hiring agency to receive and review the results of the psychological exam. The commission does not routinely review these exams but may do so pursuant to RCW 43.101.400.

(6) Prior to the examination, the applicant must consent in writing to the conditions of the evaluation. The informed consent should clearly state the hiring agency is the client so that the applicant knows that the entire examination would be shared with the agency.

(7) The examination shall include the following:

(a) A minimum of three written psychological tests that are objective, job-related, psychological instruments validated for use in evaluating law enforcement or correctional officers;

(i) For the purpose of this section, a validated test is defined as a test that has a substantial research base for interpretation with normal range populations in general and public safety applications in particular;

(ii) Validated tests used must be the most current versions and be consistent with current, objective, and relevant norms; and

(iii) It is the examiner's responsibility to determine what tests can and will be used to make a valid and reliable determination of applicant suitability based on available instruments that include current, objective, and relevant norms to the position in question;

(b) At least one comprehensive, face-to-face, clinical interview with the applicant conducted after a complete review of the psychological test results; if a complete review of the psychological test results is not completed prior to the interview, then a second interview shall be conducted;

(c) An interpretation of the psychological test results by the examiner;

(d) An opinion on psychological suitability by the examiner; and

(e) A list and summary of the information relied upon for the examination.

(8) Findings of the psychological examination shall be shared by the examiner with the hiring agency verbally with an opportunity to ask questions, as well as reported in writing.

(9) The examiner shall provide an opinion regarding the likelihood that an applicant can safely and effectively perform the essential functions of the position. Any risk factors should also be indicated as well. Areas of essential function to evaluate include, but are not limited to:

(a) Adaptability and flexibility;

(b) Avoidance or risk-tasking behaviors;

(c) Conscientiousness and dependability;

(d) Decision making and judgment;

(e) Emotional regulation and stress tolerance;

(f) Impulse control and attention to safety;

(g) Integrity and ethics;

(h) Social competence; and

(i) Teamwork.

(10) The written report shall include the following:

(a) The date of completion and a signature of the examiner;

(b) Name and date of birth of applicant, position applied for, and agency which made the conditional offer of employment;

(c) A list and summary of the information relied upon for the examination;

(d) All the components of the examination, as defined in this chapter;

(e) Factors which could affect the reliability and validity of the examination; and

(f) An opinion of the psychological suitability of the applicant to be an officer for the hiring agency.

(11) An applicant may be offered employment by more than one agency that is conditional on the results of a psychological examination.

(12) The applicant may be required to pay all or a portion of the cost of the examination under RCW 43.101.080(15) and 43.101.095(2).

(13) One psychological examination may be shared with more than one agency under the following circumstances:

(a) The agency which initiated the psychological examination and the examiner agreed to share the psychological examination report and recommendations with another agency;

(b) The applicant signed a release permitting another agency to have the psychological examination report;

(c) The psychological examination was completed within six months of the request; and

(d) The job analyses of both agencies are substantially similar.

[Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-07-030, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 13-02-060, § 139-07-030, filed 12/27/12, effective 1/27/13; WSR 10-07-037, § 139-07-030, filed 3/10/10, effective 4/10/10.]

WAC 139-07-040 Polygraph examination or other truth verification assessment. (1) Polygraph assessments provide hiring agencies with insight into an individual's honesty and an opportunity to ask an array of additional background questions.

(2) Standards for polygraph assessments:

(a) Examiners must have graduated from a polygraph school accredited by the American Polygraph Association (APA) or an association with equivalent standards for membership. The examiner must also show that they are in compliance with completion of a minimum of 30 hours of APA-approved continuing education every two calendar years;

(b) Polygraph equipment used as a part of the preemployment assessment must meet a standard that has been proved to be valid and reliable by independent research studies other than those done by the manufacturer;

(c) Techniques for conducting a polygraph must meet industry standards and comply with all applicable federal and state laws including, but not limited to, the Employee Polygraph Protection Act, Equal Employment Opportunity Commission, Americans with Disabilities Act, and Washington state law against discrimination;

(d) Preemployment assessments are considered screening devices and are conducted in the absence of a known incident, allegation, or particular reason to suspect someone's involvement; and

(e) Assessment information and results should be considered confidential within the screening process to be used exclusively by the hiring agency to assist with the selection of an applicant.

(3) Polygraph assessments:

(a) Polygraph assessments administered under this chapter shall be based on data from existing research pertaining to screening and diagnostic polygraph assessments, risk assessment, risk management, and field investigation principles;

(b) Polygraph examiners shall ask questions including, but not limited to, the following topics: General background, employment history, police/corrections experience, driving record, military service, arrest information, personal habits, illegal drug use or possession, credit/financial, sexual activities, domestic violence/temperament, theft, and security and personal associations. Additional questions shall apply specifically to laterals and corrections officers; and

(c) The polygraph examiner shall assure that the polygraph equipment is properly functioning, maintained, and calibrated in compliance with the manufacturer's recommendation.

(4) At a minimum, a polygraph instrument shall continuously record the following components during the assessment process:

(a) Two pneumograph components to document thoracic and abdominal movement patterns associated with respiration;

(b) A component to record electro dermal activity reflecting relative changes in the conductance or resistance of current by epidermal tissues;

(c) A cardiograph component to report pulse rate, pulse amplitude, and relative blood pressure changes; and

(d) A motion sensor.

(5) Examiners shall provide hiring agencies with a thorough report that analyzes the results of the assessment. Such report shall include any and all disclosures made by the applicant to the questions asked during the preassessment interview, as well as the results of the applicant's truthfulness to the assessment questions.

(6) The agency which authorized the polygraph assessment shall maintain all documentation of the assessment as required in the law enforcement records retention schedule provided by the Washington state secretary of state's office.

(7) It is the responsibility of the hiring agency to accept the results of the polygraph assessment. The commission does not routinely review these assessments but may do so pursuant to RCW 43.101.400.

(8) An applicant may be offered employment by more than one agency. The polygraph results may be shared with more than one law enforcement or correctional agency under the following circumstances:

(a) The agency which initiated the polygraph assessment agrees to share the results of the assessment in full with another hiring agency;

(b) The applicant signed a release permitting another hiring agency to obtain the assessment report;

(c) The polygraph assessment was completed within six months of the request; and

(d) The job analyses of both agencies are substantially similar.

(9) Other truth verification assessments must be approved by the commission with additional rules established by the commission's governing body regarding its standards of use in fulfilling RCW 43.101.095.

(10) Polygraph reports older than six months shall be considered invalid for the purpose of RCW 43.101.080(15) and 43.101.095(2).

[Statutory Authority: RCW 43.101.080. WSR 25-01-071, s 139-07-040, filed 12/12/24, effective 1/12/25; WSR 23-01-086, § 139-07-040, filed 12/16/22, effective 1/16/23. Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-07-040, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 13-02-060, § 139-07-040, filed 12/27/12, effective 1/27/13; WSR 10-07-037, § 139-07-040, filed 3/10/10, effective 4/10/10.]