Chapter 139-07 WAC
CONDITIONS OF EMPLOYMENT

WAC

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WAC 139-07-010 Conditions of employment. As a condition of continuing employment for any applicant who has been offered a conditional offer of employment as a fully commissioned peace officer or a reserve officer, including any person whose certification has lapsed as a result of a break in service of twenty-four consecutive months in the officer's service as a fully commissioned peace officer or reserve officer, the applicant shall submit to a background investigation including a check of criminal history, a psychological examination, and a polygraph or other truth verification assessment as authorized by the county, city, or state law enforcement agency in compliance with the requirements of this chapter.

[Statutory Authority: RCW 43.101.080. 13-02-060, § 139-07-010, filed 12/27/12, effective 1/27/13; 10-07-037, § 139-07-010, filed 3/10/10, effective 4/10/10.]

WAC 139-07-020 Background information. (1) Requirements for the applicant.

(a) Personal history statement. The applicant shall complete and submit to the employing agency a personal history statement on a form prescribed by the employer before the start of a background investigation. The personal history statement form shall contain questions and answers which aid in determining whether the person is suitable for employment as a certified peace officer or a reserve officer. The questions shall address whether the applicant meets the minimum requirements for employment, has engaged in conduct or a pattern of conduct which would jeopardize the public trust in the law enforcement profession, and is of good moral character.

(b) Information requirements. To assist with the background investigation, the applicant shall provide the following:

(i) Proof of United States citizenship. A copy of a birth certificate, United States passport, or United States naturalization papers is acceptable proof.

(ii) Proof of education. A certified copy of a diploma, certificate, or transcript is acceptable proof.

(iii) Record of any military discharge. A certified copy of the Military Service Record (DD Form 214, Member 4) is acceptable proof.

(iv) Personal references. The names and addresses of at least three people who can provide information as personal references.

(v) Previous employers or school attendees. The names and addresses of all employers and schools attended within the last ten years, at a minimum.

(vi) Residence history. A listing of the complete residential addresses for the last ten years.

(2) Requirements of the agency. At a minimum, the agency shall include the following in its collection and assessment of an applicant's background information, which also includes determining if the information provided by the applicant is accurate and truthful. The agency shall:

(a) Query all the law enforcement agency records in jurisdictions listed in subsection (1)(b)(v) and (vi) of this section;

(b) Query the motor vehicle division driving records from any state listed in subsection (1)(b)(v) and (vi) of this section;

(c) Complete and submit a fingerprint card inventory sheet to the Federal Bureau of Investigation and Washington state patrol records division for query;

(d) Query the National Crime Information Center/Interstate Identification Index (NCIC/III) and the Washington Criminal Information Center/Washington State Identification System (WACIC/WASIS) or the equivalent for each state listed in subsection (1)(b)(v) and (vi) of this section;

(e) Contact a minimum of three references and a reasonable number of previous employers listed in subsection (1)(b)(iv) and (v) of this section and document the answers to inquiries concerning whether the person meets the standards of this section; and

(f) At the conclusion of all of the requirements of the collection and assessment of an applicant's background information, the agency shall complete a report that attests to all the requirements, including the requirements of WAC 139-05-220.

[Statutory Authority: RCW 43.101.080. 13-02-060, § 139-07-020, filed 12/27/12, effective 1/27/13; 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," which means 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 qualified professional who administers the examinations should be trained and experienced in psychological testing, test interpretation, psychological assessment techniques, and the administration of psychological examinations specific to peace officer applicants of law enforcement agencies.

(b) The examination should be based upon attributes considered most important for effective performance as a peace officer as obtained from a job analysis and data provided by the law enforcement agency making the conditional offer of employment. The data may include interviews, sur-

veys, or other appropriate sources where job performance information was obtained.

(c) Psychological examination reports older than six months shall not be considered valid for the purpose of RCW 43.101.080(19) and 43.101.095(2).

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

(2) Through the examination, the qualified professional shall determine the psychological suitability of the peace officer applicant by an assessment of whether he or she is free from job-relevant mental and emotional impairments including, but not limited to, psychopathology, personality disorders, and inappropriate behavior patterns.

(3) The sole purpose of the psychological examination under this chapter is compliance with RCW 43.101.080(19) and 43.101.095 (2)(a) and shall not be used for any other purpose by the law enforcement agency or any party.

(4) Prior to the administration of the examination, the applicant must sign an informed consent to the conditions of the evaluation. The informed consent should clearly state the law enforcement agency is the client so that the applicant is informed that the entire examination would be shared with the agency.

(5) The examination shall include the following:

(a) A minimum of two written psychological tests:

(i) The tests should be objective, job-related, psychological instruments validated for use in evaluating law enforcement officers. 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) If mail-order, internet based, or computerized tests are employed, the examiner should verify and interpret individual results;

(b) A comprehensive, face-to-face, clinical interview with the applicant conducted after a complete review of the psychological test results;

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

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

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

(6) Findings of the psychological examination shall be reported in writing to the law enforcement agency requesting the examination.

(7) The written report shall include the following:

(a) The date of completion and a signature of the qualified professional who conducted the examination;

(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 assessment;

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

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

(f) An assessment of the psychological suitability of the applicant to be a peace officer or reserve officer for the particular law enforcement agency.

(8) A peace officer applicant may be offered employment by more than one law enforcement agency that is conditional on the results of a psychological examination.

(9) The peace officer applicant may be required to pay all or a portion of the cost of the examination under RCW 43.101.080(19) and 43.101.095(2).

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

(a) The agency which initiated the psychological examination and the qualified professional conducting the examination agreed to share the psychological examination report and recommendations with the other law enforcement agency;

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

(c) The psychological examination was completed within six months of the request by the other law enforcement agency; and

(d) The job analyses of the initiating and other law enforcement agencies must be substantially similar.

[Statutory Authority: RCW 43.101.080. 13-02-060, § 139-07-030, filed 12/27/12, effective 1/27/13; 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) Standards for polygraph and other truth verification assessments.

(a) Equipment used to conduct truth verification assessments as a part of the preemployment testing for certification of a peace officer or reserve law enforcement officer must meet a standard that has been proved to be valid and reliable by independent research studies other than those done by the manufacturer.

(b) The examiners, analysts, and their techniques for conducting a truth verification assessment must 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.

(c) Truth verification assessments under this chapter are intended as one of the tools for incremental validity to risk assessment and risk management efforts surrounding the evaluation and selection of peace officer and reserve officer applicants.

(d) Preemployment tests and assessments are considered screening devices and are conducted in the absence of a known incident, allegation, or particular reason to suspect someone's involvement. The truth verification assessment questions should be simple, direct, and easily understood by the applicant. Test information and results should be considered confidential within the screening process to be used exclusively by the county, city, or state law enforcement agency to assist with the selection of their applicant.

(2) Polygraph examination.

(a) An experienced polygraph examiner who is a graduate of a polygraph school accredited by the American Polygraph Association (APA) shall conduct the polygraph test.

The examiner must also show that he or she is in compliance with completion of a minimum of thirty hours of APA-approved continuing education every two calendar years.

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

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

(i) The polygraph examiner shall record a chart semiannually to demonstrate correct functioning and shall be maintained by the examiner for a period of one year.

(ii) At a minimum, a polygraph instrument shall continuously record the following components during the testing 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.

(d) The county, city, or state law enforcement agency which authorized the polygraph test shall maintain all documentation of the test for a minimum of three years from the date of the test unless otherwise required by law.

[Statutory Authority: RCW 43.101.080. 13-02-060, § 139-07-040, filed 12/27/12, effective 1/27/13; 10-07-037, § 139-07-040, filed 3/10/10, effective 4/10/10.]