

CHAPTER 2:01:02

MINIMUM STANDARDS

Section

2:01:02:01	Minimum standards for employment.
2:01:02:02	Felons to be rejected -- Misdemeanants to be reviewed.
2:01:02:03	Repealed.
2:01:02:03.01	Exception from prohibition on employment or certification.
2:01:02:04	Transferred.
2:01:02:04.01	Notice of appointment of law enforcement officer.
<u>2:01:02:04.02</u>	<u>Notice of discontinuance of employment of law enforcement officer.</u>
2:01:02:05	Filing of fingerprints.
2:01:02:06	Waiver.
2:01:02:07	Transferred.
2:01:02:08	Discontinuance of employment of law enforcement officer.
2:01:02:09	Transferred.
2:01:02:10	Transferred.
2:01:02:11	Expiration of certification.

2:01:02:01. Minimum standards for employment. A person may be employed or certified as a law enforcement officer only if the person:

- (1) Is a citizen of the United States;
- (2) Is at least 21 years of age at time of appointment;
- (3) Has fingerprints taken by a qualified law enforcement officer;
- (4) Is of good moral character;
- (5) Is a graduate of an accredited high school or has a high school equivalency certificate acceptable to the commission;
- (6) Is examined and certified, on forms prescribed by the commission, by a licensed physician, physician assistant, or nurse practitioner ~~who certifies, on forms prescribed by the commission, that the applicant is~~ to be able to perform the duties of a law enforcement officer;

(7) Is interviewed in-person by the hiring agency or its designated representative before employment. The interview must include questions to determine the ~~applicant's~~ person's general suitability for law enforcement service, appearance, personality, temperament, ability to communicate, and other characteristics reasonably necessary to the performance of the duties of a law enforcement officer;

(8) Has undergone a background investigation by the hiring agency that includes an inquiry into the person's driving history, criminal history, previous employment, personal references, credit reports, social media accounts, and law enforcement training records;

~~(8)~~ (9) Takes the oath of office as required by SDCL 9-14-7 or 3-1-5. The oath may be taken before the nearest available judge of a court of record;

~~(9)~~ (10) Has not unlawfully used any prescribed drug, controlled substance, or marijuana within one year before the time of application for certification;

~~(10)~~ (11) Is eligible to reapply for certification, if the person has for any reason failed to successfully complete the basic law enforcement training program; and

~~(11)~~ (12) Has not had certification revoked, suspended, consented to decertification, had an application for certification refused, committed an act in violation of chapter 2:01:11, or been dismissed from a basic training program as a result of an act in violation of any basic academy handbook, unless the commission upon application declares the person eligible for employment or certification.

General Authority: SDCL 23-3-35(2).

Law Implemented: SDCL 23-3-35(2), 23-3-42.

2:01:02:04.02. Notice of discontinuance of employment of law enforcement officer. A

law enforcement agency shall submit a completed law enforcement resignation or termination form to the commission within ten days after a law enforcement officer ceases employment for any reason with that law enforcement agency.

General Authority: SDCL 23-3-35(1).

Law Implemented: SDCL 23-3-35(3).

2:01:06:17. Basic requirement for continuing education of officers. Beginning July 1, 2006, to maintain a basic certification, a law enforcement officer must complete 40 hours of training in a two-year period in the following areas:

(1) Annual firearms requalification to include completion of a certified shooting course with a passing score of at least 75 percent;

(2) Continuing education to include completion of courses sponsored by law enforcement training or courses approved and documented by the law enforcement officer's agency in subject areas listed in § 2:01:06:05;

(3) At least two hours of training in crisis intervention or mental illness; and

(4) At least two hours of training in response-to-resistance training.

These hours will be calculated biennially during even-numbered calendar years. A written report containing the name of the law enforcement officer, signed by the agency head or designee, certifying that the officer has successfully completed the continuing educational requirements and firearms requalification, must be submitted by the employing agency to the executive secretary no later than January 25th of the year following an even-numbered year. An agency shall maintain training records and make them available for inspection by the commission, through the Office of Law Enforcement Training. A failure to complete the requirements necessary to maintain basic certification within the two-year period will result in the certification becoming inactive until such time as all training requirements are completed.

General Authority: SDCL 23-3-35(1)(3), 23-3-42.

Law Implemented: SDCL 23-3-26, 23-3-42.

CHAPTER 2:01:11

REVOCATION OF LAW ENFORCEMENT OFFICER CERTIFICATION

Section

2:01:11:01	Revocation <u>or suspension</u> of certification of law enforcement officer – <u>Executive secretary to report</u> .
2:01:11:02	Moral turpitude.
2:01:11:03	Procedure for <u>obtaining a complaint form and filing a complaint</u> requesting revocation of certification of law enforcement officer.
2:01:11:04	Investigation and dismissal of complaint.
2:01:11:05	Repealed.
2:01:11:06	Hearing.
2:01:11:07	Burden of proof.
2:01:11:08	Application for reinstatement of certification.
2:01:11:09	Consent of to decertification.
2:01:11:10	Conduct unbecoming of a law enforcement officer.

2:01:11:01. Revocation or suspension of certification of law enforcement officer --
Executive secretary to report. The commission may revoke or suspend the certification of a law enforcement officer who: has been convicted of or received a suspended imposition of sentence for either a misdemeanor involving moral turpitude or a felony; has falsified any information required to obtain certification; has been discharged for cause from employment as a law enforcement officer; has failed to secure domestic abuse training required by SDCL 23-3-39.4; or has engaged in conduct unbecoming of a law enforcement officer. The executive secretary shall place on the National Decertification Index the officer's name concerning such revocation or suspension and supply, upon request from any other law enforcement agency, any investigative report regarding the conduct leading to the revocation or suspension.

General Authority: SDCL 23-3-35(3), ~~23-3-39.4~~ 23-3-42.

Law Implemented: SDCL 23-3-39.4, 23-3-42.

2:01:11:02. Moral turpitude. For the purposes of this chapter, "moral turpitude" ~~in the phrase "misdemeanor involving moral turpitude"~~ has the same meaning as in SDCL 22-1-2(25) and includes a conviction or suspended imposition of sentence for any of the following:

~~(1) Driving under the influence of alcoholic beverages or drugs or with more than the legally permissible amount of blood alcohol;~~

~~(2) Interference with another's civil rights;~~

~~(3) Practicing a profession without a required license;~~

~~(4) malfeasance, misfeasance, or nonfeasance in public office; or~~

~~(5) An offense involving marijuana or a controlled substance.~~

General Authority: SDCL 23-3-35~~(2)~~(3).

Law Implemented: SDCL 22-1-2(25), 23-3-35~~(2)~~(3).

2:01:11:03. Procedure for obtaining a complaint form and filing a complaint requesting revocation of certification of law enforcement officer. A person ~~may file a complaint requesting the revocation or suspension of the certification of a law enforcement officer believing that a violation of this chapter exists may request, either orally or in writing, a complaint form from the executive secretary. Within ten days after receiving the request, the executive secretary shall provide that person a complaint form approved by the commission. The complaint form may be provided by mail or by directing the person to an online complaint form.~~

The person submitting the complaint shall identify the law enforcement officer and ~~allege as grounds for revocation or suspension the statute or rule the officer has violated. The complaint must concisely state the relevant facts known to the complainant upon which the complaint is based and the relief and decision requested of the commission.~~ The complainant must sign and

verify the complaint to be true to the best of the complainant's knowledge, information, and belief. The complaint shall be filed with the executive secretary ~~who shall transmit copies of it to the members of the commission and to the respondent officer.~~

General Authority: SDCL 23-3-35(3).

Law Implemented: SDCL 23-3-35(3).

2:01:11:04. Investigation and dismissal of complaint. Upon the filing of a complaint ~~requesting the revocation or suspension of the certification of a law enforcement officer,~~ the executive secretary shall conduct an investigation of the allegations in the complaint, in accordance with the commission's internal operating procedures for complaints against certified law enforcement officers. ~~The chairman of~~ In conjunction with an investigation, the executive secretary may require the law enforcement officer to undergo a psychological evaluation by a psychologist designated by the executive secretary to determine the officer's ability to perform the duties of a law enforcement officer. After the investigation is concluded, the executive secretary shall give notice of a contested case hearing under SDCL chapter 1-26 or submit the complaint and any investigative report to a commission member. After examining the complaint and investigative report, the commission member must either request further investigation, direct the executive secretary to give notice of a contested case hearing, or the commission member may dismiss the complaint if it appears that the grounds alleged in the complaint are frivolous, clearly unfounded in fact, or in the opinion of the commission member, the appointing authority has adequately responded to the allegations alleged in the complaint. If the complaint is not resolved or otherwise disposed of during the investigation, the commission shall give notice of and conduct a contested case hearing. If the commission member dismisses the complaint, such dismissal shall be reported to the commission at its next regularly scheduled meeting.

General Authority: SDCL 23-3-35(3).

Law Implemented: SDCL 23-3-35(3).

2:01:11:07. Burden of proof. At a hearing on a complaint ~~requesting the revocation or suspension of the certification of a law enforcement officer~~, the complainant has the burden of establishing grounds for the revocation or suspension through proof by clear and convincing evidence.

General Authority: SDCL 23-3-35(3).

Law Implemented: SDCL 23-3-35(3).

2:01:11:09. Consent ~~of~~ to decertification. A certified law enforcement officer who is subject to an investigation or pending action involving allegations of misconduct may consent to decertification. However, any ongoing investigation into allegations of misconduct will continue despite the consent to decertification.

A certified law enforcement officer who consents to decertification may, after one year, apply to the commission for reinstatement of certification. The executive secretary shall place on the National Decertification Index the officer's name concerning such decertification and supply, upon request from any other law enforcement agency, any investigative report regarding the conduct leading to decertification.

General Authority: SDCL 23-3-35(3), 23-3-42.

Law Implemented: SDCL 23-3-35(3), 23-3-42.

2:01:11:10. Conduct unbecoming of a law enforcement officer. For the purpose of ~~these~~ rules this chapter, "conduct unbecoming of a law enforcement officer" means the following:

- (1) ~~conduct~~ Conduct contrary to professional standards that shows an unfitness to discharge duties, ~~or including an act of moral turpitude;~~
- (2) ~~conduct~~ Conduct which adversely affects morale or efficiency of the force or damages public confidence;
- (3) Failure to cooperate with the executive secretary or the commission regarding any investigation into the conduct of a law enforcement officer, unless the investigation subjects the officer to potential criminal liability;
- (4) Failure to disclose to the executive secretary any arrest of the law enforcement officer within ten days from the arrest; disclosure to the executive secretary may be accomplished by the officer's agency administrator;
- (5) Failure to intervene when a fellow officer is subjecting a person to excessive force, while having a realistic opportunity to take reasonable steps to prevent harm from occurring; an officer must report such intervention to the executive secretary within five days; disclosure to the executive secretary may be accomplished by the officer's agency administrator;
- (6) Use or possession of marijuana or any marijuana derivative regardless of whether such use or possession may be legal under state law or pursuant to a valid prescription; or
- (7) Use or possession of any controlled substance not obtained pursuant to a valid prescription.

General Authority: SDCL 23-3-35(3).

Law Implemented: SDCL 23-3-35(3).

2:05:01:01. Minimum standards for employment. A person may be employed or certified only if the person:

- (1) Is a citizen of the United States;
- (2) Is at least 18 years of age at the time of appointment;
- (3) Has fingerprints taken by a qualified law enforcement officer;
- (4) Is of good moral character;
- (5) Is a graduate of an accredited high school or has a high school equivalency certificate acceptable to the commission;
- (6) Is examined and certified, on forms prescribed by the commission, by a licensed physician, physician assistant, or nurse practitioner ~~who certifies, on forms prescribed by the commission, that the applicant is~~ to be able to perform the duties of a 911 telecommunicator;
- (7) Has been interviewed and hired by an agency that determines the ~~applicant's~~ person's general suitability for a 911 telecommunication service, based on personality, temperament, ability to communicate, and other characteristics reasonably necessary to the performance of the duties of a 911 telecommunicator;
- (8) Has undergone a background investigation by the hiring agency that includes an inquiry into the person's driving history, criminal history, previous employment, personal references, credit reports, social media accounts, and law enforcement training records;
- ~~(8)~~ (9) Has not unlawfully used any prescribed drug, controlled substance, or marijuana within one year before the time of application for certification;

~~(9)~~ (10) Is eligible to reapply for certification if the person has, for any reason, failed to successfully complete the basic telecommunication program;

~~(10)~~ (11) Has not had certification revoked, consented to decertification, had an application for certification refused, committed an act in violation of § 2:05:03:01, or been dismissed from the basic training program as a result of an act in violation of any basic academy handbook, unless the commission upon application declares the person eligible for employment or certification; and

~~(11)~~ (12) Has not become ineligible for employment or certification as a 911 telecommunicator, as a result of dismissal from employment, unless the commission, upon application, declares the person eligible for employment or certification in this state.

General Authority: SDCL 34-45-26, 34-45-29.

Law Implemented: SDCL ~~34-45-24~~ 34-45-26, 34-45-29.

CHAPTER 2:05:03

REVOCATION OF 911 TELECOMMUNICATOR CERTIFICATION

Section

2:05:03:01	Revocation of certification of 911 telecommunicator.
2:05:03:02	Moral turpitude.
2:05:03:03	Procedure for <u>obtaining a complaint form and filing a complaint</u> requesting revocation of certification of <u>a</u> 911 telecommunicator
2:05:03:04	Investigation and dismissal of complaint.
2:05:03:05	Hearing.
2:05:03:06	Burden of proof.
2:05:03:07	Application for reinstatement of certification.
2:05:03:08	Consent to decertification.
2:05:03:09	Conduct unbecoming of a 911 telecommunicator.

2:05:03:02. Moral turpitude. For the purposes of this chapter, the term moral turpitude ~~in~~ the phrase ~~misdemeanor involving moral turpitude~~, has the same meaning as in SDCL 22-1-2(25) and includes a conviction or suspended imposition of sentence for any of the following:

(1) ~~Driving under the influence of alcoholic beverages or drugs or with more than the legally permissible amount of blood alcohol;~~

(2) ~~Interference with another's civil rights;~~

(3) ~~Practicing a profession without a required license;~~

(4) ~~malfeasance, misfeasance, or nonfeasance in public office; or~~

(5) ~~An offense involving marijuana or a controlled substance.~~

General Authority: SDCL 34-45-26, 34-45-29.

Law Implemented: SDCL ~~34-45-24~~ 34-45-26, 34-45-29.

2:05:03:03. Procedure for obtaining a complaint form and filing a complaint requesting revocation of certification of a 911 telecommunicator. A person ~~may file a complaint requesting the revocation or suspension of the certification of a 911 telecommunicator.~~

alleging a violation of this chapter may request, either orally or in writing, a complaint form from the executive secretary. Within ten days after receiving the request, the executive secretary shall provide that person a complaint form approved by the commission. The complaint form may be provided by mail or by directing the person to an on-line complaint form. The complaint shall identify the 911 telecommunicator and ~~allege as grounds for revocation or suspension the statute or rule the telecommunicator has violated. The complaint must concisely~~ state the relevant facts known to the complainant ~~upon which the complaint is based and the relief and decision requested of the commission.~~ The complainant must sign and verify the complaint to be true to the best of the complainant's knowledge, information, and belief. The complaint shall be filed with the executive secretary ~~who shall transmit copies of it to the members of the commission and to the respondent telecommunicator.~~

General Authority: SDCL ~~34-45-26, 34-45-29.~~

Law Implemented: SDCL ~~34-45-24, 34-45-29.~~

2:05:03:04. Investigation and dismissal of complaint. Upon the filing of a complaint ~~requesting the revocation or suspension of the certification of a 911 telecommunicator,~~ the executive secretary shall conduct an investigation of the allegations in the complaint, in accordance with the commission's internal operating procedures for complaints against certified 911 telecommunicators. ~~The chairman of~~ In conjunction with an investigation, the executive secretary may require the telecommunicator to undergo a psychological evaluation by a psychologist designated by the executive secretary to determine the telecommunicator's ability to perform the duties of a 911 telecommunicator. After the investigation is concluded, the executive secretary shall give notice of a contested case hearing or submit the complaint and any investigative report to a commission member. After examining the complaint and investigative report, the commission

member must either request further investigation, direct the executive secretary to give notice of a contested case hearing or the commission member may dismiss the complaint if it appears that the grounds alleged in the complaint are frivolous, clearly unfounded in fact, or in the opinion of the commission member, the appointing authority has adequately responded to allegations alleged in the complaint. If the complaint is not resolved or otherwise disposed of during the investigation, the commission shall give notice of and conduct a contested case hearing. If the commission member dismisses the complaint, such dismissal shall be reported to the commission at its next regularly scheduled meeting.

General Authority: SDCL ~~34-45-26~~, 34-45-29.

Law Implemented: SDCL ~~34-45-24~~, 34-45-29.

2:05:03:06. Burden of proof. At a hearing on a complaint ~~requesting the revocation or suspension of the certification of a 911 telecommunicator~~, the complainant has the burden of establishing grounds for the revocation or suspension through proof by clear and convincing evidence.

General Authority: SDCL ~~34-45-26~~, 34-45-29.

Law Implemented: SDCL ~~34-45-24~~, 34-45-29.

2:05:03:09. Conduct unbecoming of a 911 telecommunicator. For the purpose of ~~these rules this chapter~~, the phrase "conduct unbecoming of a 911 telecommunicator," means the following:

- (1) ~~conduct~~ Conduct contrary to professional standards that shows an unfitness to discharge duties, ~~or including an act of moral turpitude~~;

- (2) ~~conduct~~ Conduct which adversely affects morale or efficiency of the agency or damages public confidence;
- (3) Failure to cooperate with the executive secretary or the commission regarding any investigation into the conduct of a 911 telecommunicator, unless the investigation subjects the telecommunicator to potential criminal liability;
- (4) Failure to disclose to the executive secretary any arrest of the 911 telecommunicator within ten days of the arrest; disclosure to the executive secretary may be accomplished by the telecommunicator's agency administrator;
- (5) Use or possession of marijuana or any marijuana derivative regardless of whether such use or possession may be legal under state law or pursuant to a valid prescription; or
- (6) Use or possession of any controlled substance not obtained pursuant to a valid prescription.

General Authority: SDCL 34-45-26, 34-45-29.

Law Implemented: SDCL ~~34-45-24~~ 34-45-26, 34-45-29.