

**CHAPTER 79. COUNTY PROBATION AND PAROLE OFFICERS'
FIREARM EDUCATION AND TRAINING COMMISSION**

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Authority

The provisions of this Chapter 79 adopted under the County Probation and Parole Officers' Firearm Education and Training Law (61 P. S. §§ 332.1—332.9), unless otherwise noted.

Source

The provisions of this Chapter 79 adopted June 5, 2009, effective June 6, 2009, 39 Pa.B. 2780, unless otherwise noted.

GENERAL PROVISIONS**§ 79.1. Scope.**

This part sets forth standards and procedures relating to the certification of county probation and parole officers and their qualification to carry or use firearms in the performance of their duties.

§ 79.2. Definitions.

(a) The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The County Probation and Parole Officers' Firearm Education and Training Law (61 P. S. §§ 332.1—332.9).

Basic training—The initial training provided by the Commission.

CFI—*Certified Firearms Instructor*—A firearms instructor who is approved by the Commission under § 79.61(a)(1) (relating to approval of instructors.)

Commission—Firearm Education and Training Commission.

County conducted training—Any Commission-approved training not presented by the Commission but presented by a county.

Executive Director—The administrative officer reporting directly to the Commission who is responsible for program management.

FCTMS—Firearms Commission Training Management System.

In-service training—The continuing training necessary for county probation and parole officers to maintain certification.

MI—*Master Instructor*—A CFI who meets the minimum qualifications to become an MI and who is approved by the Commission under § 79.61(a)(2).

(b) The definitions in section 2 of the act (61 P. S. § 332.2) are incorporated by reference.

§ 79.3. Enrollment.

Enrollment in programs under this part will be based upon all relevant factors pertaining to the ability of the Commission to hold a program including the number of openings in a particular training program, the timing of the submitted application for training, the financial viability of conducting the training and the availability of instructors and facilities to hold the program.

INITIAL CERTIFICATION OF OFFICERS**§ 79.11. Certification.**

Certification of those county probation/parole officers who have satisfactorily completed basic training or who have been granted a waiver by the Commission will be recognized through the issuance of a certificate, which will bear a certification number.

§ 79.12. Applications.

(a) The requirements for program participation or waiver in section 7 of the act (61 P. S. § 332.7) are incorporated by reference.

(b) Application procedures to participate in training programs approved by the Commission will require any officer or county, or both, to submit information in a format as specified on FCTMS (<http://www.fetc.state.pa.us/fetc/site/default.asp>).

§ 79.13. Requirements for completions.

Satisfactory completion is defined as meeting the following requirements:

- (1) Attendance at the entire approved training program.
- (2) Compliance with Student Code of Conduct for the programs as reviewed and approved annually by the Commission and set forth in the course syllabus for a training program and on the Commission's web site.
- (3) Attainment of a passing score on all components of a training program that are graded or evaluated, or both, including written, oral and range components of a training program.

Cross References

This section cited in 37 Pa. Code § 79.15 (relating to failure to complete basic training); and 37 Pa. Code § 79.42 (relating to meet range qualification within required time frames).

§ 79.14. Duration of certification.

The certification of officers by the Commission as a result of satisfactory completion of the basic training during a calendar year will remain valid through December 31 of the following calendar year, unless revoked under § 79.31 (relating to reasons for revocation of certification).

§ 79.15. Failure to complete basic training.

(a) An officer who fails to achieve a passing score on the written examination portion of basic training will not be allowed to continue in that basic training program. The officer may reapply to the Commission to enroll and participate in subsequent basic training programs.

(b) If an officer achieves a passing score on the written examination, but otherwise fails to complete the basic training requirements under § 79.13 (relating to requirements for completion), the officer's passing score will be recognized by the Commission for 1 year from the date of attainment of the passing score on the written examination. If the officer enrolls in a subsequent basic training program during this 1-year period, the officer will be required to attend and complete only the portion of the basic training that was not successfully completed.

(c) If an officer fails to achieve a passing score on the range portion of basic training, the Executive Director will notify the officer's chief probation officer, by means of certified mail, that the officer did not achieve a passing score on this portion of basic training.

(d) An officer who fails to achieve a passing score on the range portion of basic training may be afforded one additional opportunity to shoot the range portion of basic training within 90 calendar days from the date the officer fails to achieve a passing score if the officer's chief probation officer submits a written request to the Executive Director seeking permission for the officer to shoot the range portion of basic training within 45 calendar days of the date that the officer failed to achieve a passing score. The Executive Director will grant or deny the permission, in writing, within 15 business days after receiving the written request from the officer's chief probation officer.

(1) The request must include the following:

- (i) A proposed date, time and location for the shoot.
- (ii) The name of the CFI who will conduct the examination.
- (iii) A written statement from a CFI that the CFI provided remedial range training and that the officer is competent to pass the range portion of basic training.

(2) The examination may be subject to monitoring by the Commission without notice.

MAINTENANCE OF CERTIFICATION**§ 79.21. Maintenance of certification.**

(a) Certifications are effective until December 31 of the calendar year following the issuance of the original or renewed certification unless the Certification has been revoked under §§ 79.31, 79.32 or 79.33 (relating to revocation of certification).

(b) To maintain certification beyond December 31 of the calendar year following the issuance of the original Certification or renewed certification, an officer must successfully complete the following:

(1) At least 4 hours of in-service training, on an annual basis, the specifics of which the Commission will publish by the end of the first quarter of each calendar year on the Commission's web site (<http://www.fetc.state.pa.us/fetc/site/default.asp>).

(2) A range requalification examination under § 79.22 (relating to range requalification examinations).

(c) This section does not apply to the extent an officer's certification is revoked under § 79.31 (relating to reasons for relocation of certification).

Cross References

This section cited in 37 Pa. Code § 79.24 (relating to extensions); 37 Pa. Code § 79.31 (relating to reasons for revocation of certification); and 37 Pa. Code § 79.43 (relating to failure to meet mandatory in-service training requirements).

§ 79.22. Range requalification examinations.

(a) Range requalification examinations will require the officer to demonstrate continuing proficiency which includes weapons handling, range safety and marksmanship.

(b) A range requalification examination shall be completed during a Commission-conducted event or a training event sanctioned by the Commission.

(c) Range requalification examinations must be conducted by October 31 of each calendar year, except as specified in § 79.42(b) (relating to failure to meet range requalification requirements time frames).

(d) The course of fire for the range requalification examination shall be conducted using the same procedures that are followed for the range portion of basic training.

(e) Counties or departments desiring to conduct a range requalification examination shall follow an application process specified on the FCTMS (<http://www.fetc.state.pa.us/fetc/site/default.asp>).

(1) The first time that a county or CFI conducts a Commission-sanctioned range requalification examination, oversight must be provided by a member of the Commission, a Commission-approved representative, or a CFI who is not employed by the county or counties whose personnel are being examined.

(2) In subsequent years, the county may conduct the Commission sanctioned range requalification examination without oversight.

(3) Any county conducting Commission-sanctioned range requalification examinations is subject to periodic inspection and audit by the Executive Director or a representative of the Commission.

Cross References

This section cited in 37 Pa. Code § 79.21 (relating to maintenance of certification); 37 Pa. Code § 79.42 (relating to failure to meet range requalification within required time frames); and 37 Pa. Code § 79.43 (relating to failure to meet mandatory in-service training requirements).

§ 79.23. Failure to complete range requalification or in-service training.

(a) An officer who fails to achieve a passing score on any evaluation, which is a part of the range requalification examination or in-service training, will be permitted one additional opportunity to achieve a passing score on the portion failed within 30 calendar days of failing to achieve a passing score on any portion of an evaluation, or prior to October 31st of each calendar year, whichever time frame is shorter.

(b) An officer who fails to satisfactorily complete an in-service training requirement will not receive credit for the Commission-specified number of hours of training for that course, and may be subject to revocation of certification under §§ 79.31—79.33 (relating to revocation of certification).

Cross References

This section cited in 37 Pa. Code § 79.41 (relating to failure to achieve a passing score on a range requalification examination).

§ 79.24. Extensions.

(a) An officer who is unable to comply with § 79.21 (relating to maintenance of certification) due to extraordinary circumstances may, through his chief probation officer, submit a written request, on a form and in a format set forth on the FCTMS (<http://www.fetc.state.pa.us/fetc/site/default.asp>) to the Executive Director by October 31 of the year in which the officer's current certification will expire.

(1) The request must include the following:

(i) The specific reason for the requested extension of time.

(ii) The specific length of time of the requested extension.

(iii) Documentation to support the information that the officer supplied under subparagraph (1)(i) and (ii) including, documents such as copies of military orders or a letter from the chief probation officer.

(2) When the request is due to medical reasons, the supporting documentation must include a written statement from the officer's physician indicating that at the present time and for the period of the requested extension the officer is not medically capable of participating in a range requalification examination or in-service training.

(b) The Executive Director will review the written request for extension of time and make a recommendation to the Commission. The Commission will provide written notification to the officer and the officer's chief probation officer of its decision.

(c) If the request for extension is approved, the officer shall comply with § 79.21 no later than the ending date of the granted period of extension.

(d) If the extension is to comply with § 79.21(b)(2), the officer's chief probation officer shall send a written request to the Executive Director to conduct a range requalification examination.

(1) The Executive Director must receive the request no later than 15 business days prior to the date of the range requalification examination.

(2) The range requalification examination may occur at any time during the period of the Commission-approved extension.

(e) The certification of an officer who has been granted an extension under this section shall be effective to the ending date of the granted period of extension.

Cross References

This section cited in 37 Pa. Code § 79.33 (relating to revocation of certification for failure to submit a timely request).

REVOCATION OF CERTIFICATION

§ 79.31. Reasons for revocation of certification.

The Commission may revoke an officer's certification for failure to comply with § 79.21 (relating to maintenance of certification) or for any of the following:

(1) Conviction of any crime that subjects the officer to the disabilities under the Gun Control Act of 1968 (18 U.S.C.A. §§ 921—930), or 18 Pa.C.S. Chapter 61, Subchapter A (relating to the Pennsylvania Uniform Firearms Act of 1995), or both.

(2) Unsafe conduct during any Commission training.

(3) Unprofessional conduct, as delineated in the Student Code of Conduct, during an event or training that is conducted by the Commission.

(4) Providing false or misleading information, either orally or in writing, to the Commission, its employees or agents.

Cross References

This section cited in 37 Pa. Code § 79.14 (relating to duration of certification); 37 Pa. Code § 79.21 (relating to maintenance of certification); 37 Pa. Code § 79.23 (relating to failure to complete range requalification or in-service training); and 37 Pa. Code § 79.44 (relating to nonrecertifiable revocations).

§ 79.32. Revocation of certification for failure to pass range requalification examination.

(a) The Executive Director, upon receipt of the range requalification examination results, will immediately revoke the certification of an officer who fails to requalify.

(b) The officer who has failed to requalify will be notified of the revocation of certification in writing.

(1) Copies of the revocation notification will be sent to the chief probation officer and president judge of the officer's employing county and judicial district.

(2) The notice of revocation of certification will advise the officer that one additional opportunity to successfully complete the range requalification examination is available after the officer participates in Commission-sanctioned remedial training.

(i) Before an officer takes a Commission-sanctioned remedial training, a CFI, who has previously conducted remedial training, shall provide written documentation to the Executive Director stating that the officer to be reexamined has demonstrated sufficient improvement which warrants another opportunity to take a requalification reexamination.

(ii) The requalification examination shall occur within no more than 30 days of the initial failure of the range requalification examination.

(iii) Range requalification examinations will not be permitted after October 31 of the calendar year in which the failure occurred.

(c) Unless the officer successfully completes the range requalification examination after completion of the Commission sanctioned remedial training, the revocation of certification will remain in effect.

Cross References

This section cited in 37 Pa. Code § 79.21 (relating to maintenance of certification); and 37 Pa. Code § 79.23 (relating to failure to complete range requalification or in-service training).

§ 79.33. Revocation of certification for failure to submit a timely request.

If the officer's chief probation officer fails to submit a request for a range requalification examination to the Executive Director prior to the expiration of the extension period granted by the Commission under § 79.24 (relating to extensions), the officer's certification will be immediately revoked upon expiration of the extension period and no further extensions will be granted.

Cross References

This section cited in 37 Pa. Code § 79.21 (relating to maintenance of certification); and 37 Pa. Code § 79.23 (relating to failure to complete range requalification or in-service training).

RECERTIFICATION OF OFFICERS FOLLOWING REVOCATION

§ 79.41. Failure to achieve a passing score on a range requalification examination.

When an officer's certification has been revoked due to the officer's failure to achieve a passing score under § 79.23 (relating to failure to complete range requalification or in-service training), the officer seeking recertification shall do the following:

(1) Submit an application in a format as specified on the FCTMS (<http://www.fetc.state.pa.us/fetc/site/default.asp>). The application shall be co-signed by the chief probation officer who shall state that the officer is competent and safe to participate in Commission training activities.

(2) Enroll in, attend, and satisfactorily complete a Commission-sponsored basic training.

§ 79.42. Failure to meet range requalification within required time frames.

(a) When an officer's certification has been revoked due to the officer's failure to meet the time requirements of range requalifications in § 79.22 (relating to range requalifications), the officer seeking recertification shall do the following:

(1) Submit an application to the Executive Director within 20 calendar days of the effective date of the revocation of certification. The application must be on a form set forth on the FCTMS (<http://www.fetc.state.pa.us/fetc/site/default.asp>) and shall be co-signed by the chief probation officer.

(2) Pass any written examinations, as described in § 79.13 (relating to requirements for completion). The examinations will be administered by the Executive Director, a designee, or other authorized Commission staff or a Commission member.

(3) Successfully complete the range requalification requirements as set forth in § 79.22.

(b) The requirements for recertification set forth in this section shall be completed within 180 calendar days of the date in which the application is granted by the Commission, unless, due to extraordinary circumstances, the Commission grants additional time.

Cross References

This section cited in 37 Pa. Code § 79.22 (relating to range qualification examinations).

§ 79.43. Failure to meet mandatory in-service training requirements.

(a) When an officer's certification is revoked due to the officer's failure to meet any mandatory in-service training requirements set forth in § 79.21(b) (relating to maintenance of certification), the officer seeking recertification shall do the following:

(1) Submit an application to the Executive Director which must be in such format as specified on the FCTMS (<http://www.fetc.state.pa.us/fetc/site/default.asp>) and shall be co-signed by the chief probation officer.

(2) Enroll in, attend and complete a Commission-sponsored basic training program, or enroll in, attend and complete the next available offerings of any mandatory in-service training, which were not completed as required by the Commission.

(3) Successfully complete the range requalification examination as set forth in § 79.22 (relating to range requalification examinations).

(b) The requirements for recertification set forth in this section shall be set forth in the Commission's written approval letter which will direct the officer to the training or examination that must be completed and the time frame within which this must be completed prior to the officer being recertified.

§ 79.44. Nonrecertifiable revocations.

When an officer's certification is revoked under § 79.31(1) or (4), or both, (relating to reasons for revocation of certificate), the officer shall be ineligible for recertification.

TRAINING EXPENSE

§ 79.51. Reimbursement of expenses.

(a) Subject to the availability of funds, the Commission may assume the costs or reimburse expenses incurred, or both, during an officer's attendance at a basic training program or in-service training (including range requalification). The reimbursement will not include personnel costs. Expenses determined eligible by the Commission will be reimbursed at rates that are currently recognized by the Commonwealth.

(b) Instructors are not eligible for Commission reimbursement for any expenditure incurred when engaged in county-conducted basic training under § 79.64 (relating to county-conducted basic training) or an in-service training course developed by an entity other than the Commission or a Commission-approved vendor under § 79.63 (relating to requirements for in-service training courses) or county-conducted in-service training under § 79.65 (relating to county-conducted in-service training).

(c) Students are not eligible for Commission reimbursement for any expenditure incurred when they participate in county-conducted basic training under § 79.64 or an in-service training course developed by an entity other than the Commission or a Commission-approved vendor under § 79.63 or county-conducted in-service training under § 79.65.

(d) The Commission may reimburse, in accordance with Commission policies in effect on the dates of the county-conducted basic training or county-conducted in-service training, the county for selected expenditures associated with the county-conducted basic training or county-conducted in-service training, or both.

§ 79.52. Reimbursement limitations.

The Commission will assume only the costs or reimburse eligible training expenses, or both, incurred for an officer's initial basic training. Reimbursement of expenses will be contingent upon the county's compliance with all Commission regulations, policies and procedures and upon the satisfactory submission of

any requested information, data, forms, reports or documents. Commission reimbursement for ammunition and lodging is available for only one basic training per officer.

APPROVAL OF INSTRUCTORS, SCHOOLS AND VENDORS

§ 79.61. Approval of instructors.

(a) An individual seeking approval to become a CFI or MI in programs offered by the Commission shall submit an application in a format as specified on the FCTMS (<http://www.fetc.state.pa.us/fetc/site/default.asp>).

(1) *Minimum qualifications for CFI.* The application for approval as a CFI in any Commission training, waiver or requalification examination program will include, but not be limited to, verification that the applicant has satisfactorily completed a law enforcement firearms instructor training course offered by entities such as: FBI, Pennsylvania State Police, National Rifle Association or any other course which may be approved by the Commission and documentation that the applicant has conducted at least 12 hours of law enforcement firearms instruction within the 24 months preceding the application submission date.

(2) *Minimum qualifications for an MI.* The applicant shall be a Commission CFI for 36 months following approval as a CFI by the Commission and submit an application for designation as an MI to the Executive Director. The applicant shall have been a lead instructor for the academic/classroom portion of a Commission Basic Training Program and a range master for the range portion of the training.

(b) Certifications for both CFI and MI shall be for a period of 36 months following approval by the Commission unless sooner revoked by the Commission. When a CFI attains MI status, the 36-month period shall be calculated based upon the date that MI status is attained.

(c) To renew certification an instructor shall be required to submit an application for renewal of certification. The application must at least include documentation demonstrating that the instructor has provided the following:

(1) For CFI certification renewal, a minimum of 12 hours of relevant academic and range instruction to county probation personnel in the preceding 36 months, including at least one basic training. The requirement to conduct one basic training during the preceding 36-month period for CFI renewal may be waived by the Commission.

(2) For MI certification renewal, a minimum of 12 hours of relevant academic instruction and a minimum of 12 hours of range firearms instruction to county probation personnel in the preceding 36 months.

(d) The Commission reserves the right to revoke its certification of any CFI or MI, or both, without notice. An affected CFI or MI may seek reconsideration

of the revocations under § 79.72 (relating to procedure for officers, CFIs, MIs or schools seeking reconsideration).

Cross References

This section cited in 37 Pa. Code § 79.1 (relating to scope).

§ 79.62. Approval of schools and vendors.

(a) Schools certified under 53 Pa.C.S. §§ 2162—2171 (relating to municipal police education and training) are preapproved to conduct training as the Commission may, in particular geographic areas of the Commonwealth, require.

(b) Vendors and other entities may become approved to conduct Commission training, as the needs of the Commission dictate, through the Commonwealth's competitive bid process. Selected vendors will enter into a contract with the Commission to conduct specific training, to a particular population, for a specific period of time and to contractual standards. Approval of these entities to conduct Commission training may terminate upon expiration of the contract.

(c) Schools and vendors conducting training for the Commission shall use only instructors and curricula which have been preapproved by the Commission.

(d) Training conducted by a school or vendor must be approved and scheduled through the Executive Director, in writing, prior to any advertisement, registration or other obligation for that training.

(e) The Commission will inspect each approved school or vendor actively providing training at least once every 2 years, but reserves the right to monitor, without notice, any training conducted by approved schools or vendors, and to review and inspect related program records, materials and facilities at any time.

(f) The Commission reserves the right to suspend or revoke the approval of any school or vendor without notice. An affected school or vendor may seek reconsideration of the revocations under § 79.72 (relating to procedure for officers, CFIs, MIs or schools seeking reconsideration.)

§ 79.63. Requirements for in-service training courses.

(a) To receive credit toward Commission mandated in-service training, counties shall obtain preapproval from the Commission to conduct an in-service training course developed by an entity other than the Commission or a Commission-approved school or vendor.

(b) Counties seeking approval of an in-service training course developed by an entity other than the Commission or a Commission-approved school or vendor shall submit an application to the Executive Director at least 90 calendar days prior to the first proposed day of training. The proposal must be submitted in writing to the Executive Director.

(c) Upon approval by the Commission, the approved in-service training course may be conducted by the county in accordance with § 79.65 (relating to county-conducted in-service training).

(d) The Commission prior to the first proposed day of training must approve any changes or modifications to the in-service training course that is approved by the Commission.

Cross References

This section cited in 37 Pa. Code § 79.51 (relating to reimbursement of expenses).

§ 79.64. County-conducted basic training.

(a) To be recognized by the Commission, a basic training conducted by a county must be preapproved by the Commission and be carried out in accordance with the terms and conditions in the Commission's approval letter.

(b) An MI shall supervise all county-conducted basic training.

(c) A county desiring to conduct a basic training shall submit an application for county-conducted basic training, including all required documentation, to the Executive Director on Form 19b as found on the Commission's web site (<http://www.fetc.state.pa.us/fetc/site/default.asp>).

(d) County-conducted basic training must be conducted on training sites, both classroom and range, that are preapproved by the Executive Director.

(e) Only students who have submitted a basic training application, which has been approved by the Executive Director, shall participate in a county-conducted basic training.

(f) The entire county-conducted basic training must be completed within 30 consecutive calendar days and on the dates, times and at locations specified in the application.

(g) Upon request of the Executive Director or at the conclusion of the training, the county shall submit to the Executive Director all forms and materials referenced in the Commission's basic training approval letter in 30 calendar days.

(h) A county that is conducting an approved basic training may accept any Commission-approved student for participation in the training.

(i) Materials to support county-conducted basic training may be provided to the county by the Commission solely at the discretion of the Commission.

(j) The Commission reserves the right to monitor and inspect all aspects of county-conducted basic training without notice to the county that is conducting the training.

Cross References

This section cited in 37 Pa. Code § 79.51 (relating to reimbursement of expenses).

§ 79.65. County-conducted in-service training.

(a) To be recognized by the Commission, an in-service training course must be preapproved by the Commission and conducted in accordance with the terms and conditions set forth in the Commission's approval letter.

(b) An MI shall supervise all county-conducted in-service training.

(c) A county desiring to conduct in-service training shall submit an application for county-conducted in-service training, including the required documentation, to the Executive Director on Form 19c as found on the Commission's web site (<http://www.fetc.state.pa.us/fetc/site/default.asp>).

(d) County-conducted in-service training must be conducted on training sites, both classroom and range, that are preapproved by the Executive Director.

(e) Only students who have submitted an application for in-service training that has been approved by the Executive Director shall participate in county-conducted in-service training.

(f) The entire county-conducted in-service training must be completed within 30 consecutive calendar days and on the dates, times and at the locations specified in the application.

(g) Upon request of the Executive Director or at the conclusion of the training, the county shall submit to the Executive Director all forms and materials referenced in the Commission's in-service training approval letter in 30 calendar days.

(h) A county that is conducting approved in-service training may accept any Commission-approved student for participation in the training.

(i) Materials to support county-conducted in-service training may be provided to the county by the Commission solely at the discretion of the Commission.

(j) The Commission reserves the right to monitor and inspect all aspects of any county-conducted in-service training without notice to the county conducting the training.

Cross References

This section cited in 37 Pa. Code § 79.51 (relating to reimbursement of expenses); and 37 Pa. Code § 79.63 (relating to requirements for in-service training courses).

RECONSIDERATION OF COMMISSION DECISIONS

§ 79.71. Decisions of instructors.

Commission instructors have the authority to summarily and immediately terminate an officer's participation in any Commission sanctioned training activity if any Commission instructor believes, in the Commission instructor's sole discretion, that an officer presents a safety concern, disrupts the learning environment, or violates the Commission's Student Code of Conduct.

§ 79.72. Procedure for officers, CFIs, MIs or schools seeking reconsideration.

(a) *Procedure.* An officer, CFI, MI or school shall first seek reconsideration of a Commission decision through a letter-ruling process, which consists of the following steps:

(1) The officer, CFI, MI or school shall submit to the Executive Director a written request for reconsideration no later than 20 days after mailing of a Commission notice, which results in adverse action for the school or individual.

(2) The request for reconsideration must, at a minimum, contain the following details:

(i) The name, address, telephone number and electronic mail address of the aggrieved individual or school.

(ii) A copy of the Commission notice, which results in adverse action for the school or individual.

(iii) A concise and thorough explanation of the basis for the Request for Reconsideration.

(iv) The relief being sought.

(3) The Commission will review the request for reconsideration at its next regularly scheduled meeting. The individual or entity seeking reconsideration will be notified of the time and place of the meeting.

(4) Following review of the request for reconsideration, the Commission will render a decision regarding the request for reconsideration. Within 10 days of the date of the decision, the Commission will forward to the individual or entity, by means of certified mail, return receipt requested, a letter ruling specifying the decision and the reasons for the Commission's decision and explaining the right to a formal hearing if the individual/school/vendor does not accept the results set forth in the letter.

(5) Results and opinions set forth in letter-rulings will have no precedential authority.

(b) *Cross-reference.* This section supplements 1 Pa. Code § 35.10 (relating to form and content of formal complaints).

Cross References

This section cited in 37 Pa. Code § 79.61 (relating to approval of instructors); and 37 Pa. Code § 79.62 (relating to approval of schools and vendors).

NOTICE AND HEARINGS

§ 79.81. General Rules of Administrative Practice and Procedure.

Title 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) is applicable to the proceedings of the Commission insofar as it is not superseded by §§ 79.82—79.87.

§ 79.82. Notice.

(a) If an officer, CFI, MI or school wishes to pursue an appeal to a formal hearing, the officer, CFI, MI or school shall submit to the Executive Director a written request for hearing no later than 30 calendar days after mailing of the Commission's letter-ruling regarding the request for reconsideration.

(b) A request for hearing must be in writing and contain at least the following information:

- (1) The name, address, telephone number and electronic mail address of the officer or school filing the written request for hearing.
- (2) A copy of the Commission's letter-ruling on the request for reconsideration.
- (3) A concise statement of the complaint.
- (4) A concise statement of all relevant facts and the grounds upon which the complaint is based.
- (5) The relief being sought.

(c) The date of receipt by the Executive Director of the written hearing request from the officer, CFI, MI or school and not the date of deposit in the mails is determinative of a timely request for a hearing.

(d) This section supplements 1 Pa. Code § 35.10 (relating to form and content of formal complaints).

Cross References

This section cited in 37 Pa. Code § 79.81 (relating to general rules of administrative practice and procedure).

§ 79.83. Appointment of hearing examiner.

(a) When the Executive Director receives a request for hearing, the Commission's Chairperson or a designee will appoint a hearing examiner to preside over the formal hearing.

(b) It will be the responsibility of the appointed hearing examiner to schedule the hearing and conduct it in accordance with this section and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(c) Subsection (a) supplements 1 Pa. Code § 35.185 (relating to designation of presiding officers). Subsection (b) supplements 1 Pa. Code § 35.187 (relating to authority delegated to presiding officers).

Cross References

This section cited in 37 Pa. Code § 79.81 (relating to general rules of administrative practice and procedure).

§ 79.84. Hearings.

(a) Hearings will be conducted in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law).

(b) Legal counsel may represent the aggrieved individual or entity and the costs incurred for the representation shall be borne by the individual or entity.

(c) The hearing examiner will notify the aggrieved individual and, if applicable, the aggrieved entity and the Commission of the date, time and location of the hearing at least 60 days prior to the selected date. A courtesy copy will be

forwarded to the appropriate chief probation officer and president judge. This subsection supersedes 1 Pa. Code § 35.105 (relating to notice of nonrulemaking proceedings).

(d) A prehearing conference may be held at the discretion of the hearing examiner. If a prehearing conference is held, it will be under 1 Pa. Code § 35.111 (relating to conferences to expedite hearings).

Cross References

This section cited in 37 Pa. Code § 79.81 (relating to general rules of administrative practice and procedure).

§ 79.85. Continuances.

(a) Continuances of hearings conducted under this section will only be granted upon a showing of good cause by the party requesting the continuance.

(b) Requests for continuances shall be made in writing to the hearing examiner.

(c) A party's objections, if any, to a request for a continuance must be in writing and delivered to the hearing examiner and the other party. Objections shall be made immediately upon receipt of notification of a request for a continuance.

(d) This section supersedes 1 Pa. Code § 31.15(b) (relating to extensions of time).

Cross References

This section cited in 37 Pa. Code § 79.81 (relating to general rules of administrative practice and procedure).

§ 79.86. Failure to appear at a hearing.

(a) If an officer, CFI, MI or school or the officer's, CFI's, MI's or school's representative fails to appear at the scheduled hearing without good cause, as determined by the hearing examiner, the request for hearing shall be deemed abandoned and shall be dismissed with prejudice.

(b) If the Commission fails to appear at the hearing without good cause as determined by the hearing examiner, the hearing shall proceed in absentia.

(c) If neither the officer, CFI, MI or school nor the Commission or their representatives appear at the hearing, the hearing examiner shall reschedule the hearing.

Cross References

This section cited in 37 Pa. Code § 79.81 (relating to general rules of administrative practice and procedure).

§ 79.87. Hearing examiner recommendation.

(a) Within 30 days of conclusion of the hearings, the hearing examiner will propose findings of fact and conclusions of law to the Commission.

(b) Upon receipt and after review of the hearing examiner's proposed findings of fact and conclusions of law and any exceptions and briefs, which may be submitted by either party, the Commission, or its designees, shall issue a final adjudication.

(c) The Executive Director shall forward the final adjudication to the officer, CFI, MI or school, or their legal counsel, if the officer, CFI, MI or school has made the Executive Director aware of the representation, and the appropriate chief probation officer and president judge.

(d) The officer, CFI, MI, school or Commission shall have the right to appeal the final adjudication in accordance with Pa.R.A.P. and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law).

Cross References

This section cited in 37 Pa. Code § 79.81 (relating to general rules of administrative practice and procedure).

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