

POST BOARD SPECIAL MEETING TO ADDRESS PUBLIC COMMENTS
12:00 A.M., JANUARY 12, 2022
LAW ENFORCEMENT TRAINING ACADEMY (LETA)
BISMARCK, NORTH DAKOTA

BOARD CONSIDERATION OF ORAL AND WRITTEN COMMENTS

Chairman Dan Haugen called the meeting to order at 12:00 a.m., a quorum was present and then read a brief statement into the record regarding the purpose of the meeting.

Chiefs of Police Association Attorney Stephanie Dassinger Engebretson, McLean County States Attorney Ladd Erickson, Mandan Police Chief Jason Ziegler, Stutsman County Sheriff Chad Kaiser, McLean County Sheriff J.R. Kerzmann, Morton County Sheriff Kyle Kirchmeier, Beulah Police Chief Frank Senn, Jamestown Police Chief Scott Edinger, and Burleigh County Sheriff Kelly Leben all provided oral comment to remove the proposed language in 109-02-05-01 (4)(i) which read: i. To engage in excessive use of force. The Board all agreed to remove the proposed language.

Fargo Assistant Police Chief Travis Stefonowicz provided written comment regarding 109-02-05-01 4(i) and the concern “excessive” was not defined. This matter was addressed previously by the Board removing the proposed language.

Bureau of Criminal Investigation Director Lonnie Grabowska provided written comment not in support of the proposed rule on “excessive force” as it was not “the area of ND POST Board authority”. This matter was addressed previously by the Board removing the proposed language.

ND Sheriff’s and Deputies President Sheriff Sarah Warner provided written comment in a letter representing 37 ND sheriff’s who were in opposition to the proposed language in 109-02-05-01 4(i). This matter was addressed previously by the Board removing the proposed language.

McLean County States Attorney Ladd Erickson provided oral comment to add language in 109-02-01-05 4(c) to read: “an offense involving excessive use of force while on duty”. The Board all agreed not to accept the change and leave as currently written.

McLean County States Attorney Ladd Erickson provided oral comment to add language in 109-02-01-05 4(d) to read: Any other ”criminal offense the board may determine has a direct bearing on the applicant’s ability to serve as a peace officer”. The Board all agreed not to accept the change and leave as currently proposed.

Fargo Police Chief Dave Zibolski provided written comment to add the language “and successfully completed field training or any probationary period” in 109-02-02-01(3) (4) (5). The Board all agreed to leave the language in all three subsections as currently written.

Fargo Police Chief Dave Zibolski provided written comment that 109-02-02-11 (2) is in conflict to the current practice of license renewals and should either be followed or reworded.

POST Board Executive Secretary Duane Stanley and Administrative Assistant Monica Sebastian provided written comment to clarify 109-02-02-11 (2) by creating language for subsection (3) and subsection (4) to read as follows:

3. This rule does not include limited licenses during the first renewal period or concurrent name changes within a license period. The fee for all renewals, whether one, two or three years, will be forty-five dollars in order to get the name in the correct alphabetical three-year rotation.

4. If an officer has a name change and must renew a license for one year to get in the correct rotation, the officer will need twenty hours of continuing education in order to renew. If an officer has a name change and renews a license for two years to get in the correct rotation, the officer will need forty hours of continuing education.

The Board all agreed to add this language to the proposed rule. This decision also addressed Chief Zibolski's written comment regarding this rule.

Bismarck Police Lieutenant Mike McMerty provided written comment on the current process and confusion of license renewals regarding the license fee charged as it relates to where the last name falls in the alphabetical rotation for renewals as defined in 109-02-02-11 and the issues that arise from a name change in a license period. The Board all agreed that the adoption of the new language in subsections (3) and (4) further defined and addressed Lt. McMerty's comment.

Fargo Assistant Police Chief Travis Stefonowicz provided written comment regarding the proposed language in 109-02-01-03 (4). The proposed word "theft" should actually state "felony theft". The Board all decided to remove the word "theft" from the proposed language.

Fargo Assistant Police Chief Travis Stefonowicz provided written comment regarding the proposed language in 109-02-01-03 (4) indicating that if the language is kept, it needs to be reflected in 109-02-01-05(c) to remain consistent. The Board all agreed to add the word "sexual violations" in 109-02-01-05(c) after moral turpitude.

Fargo Assistant Police Chief Travis Stefonowicz provided written comment regarding the proposed language in 109-02-02-04.1 stating the language "criminal background investigation" needed to be added to that rule to make it consistent with current language in 109-02-01-04.1. The Board all agreed to add the language "passed a criminal history background investigation" after the word "good standing," in 109-02-02-04.1 in order to be consistent.

Fargo Assistant Police Chief Travis Stefonowicz provided written comment to remove the word "may" and replace with "shall" in line four to read, "a license shall not be issued". The Board all agreed to change the current language from "may" to "shall".

Fargo Assistant Police Chief Travis Stefonowicz provided written comment on 109-02-03-04 and the number of opportunities to qualify. The Board agreed to remove the word "three" in the proposed language and replace with the word "one" to clarify. The sentence would start: If an peace officer fails to qualify after one attempt at any certification course on three separate days by the end of the calendar year.

Fargo Assistant Police Chief Travis Stefonowicz provided written comment on 109-02-03-04 (1) stating 365 days should be added in the subsection for clarification. The Board all agreed not to accept the change and keep the language as currently proposed.

Fargo Assistant Police Chief Travis Stefonowicz provided written comment on 109-02-02-06.1 stating the proposed rule does not indicate who would administer the reserve peace officer test or the cost of the test. The Board stated the cost of the test is already addressed in 109-02-02-06.1(1). The Board all agreed to add the language: The examination shall be administered by the board or the board's designee. at the end of 109-02-02-06.1(1) along with adding that same language to the end of 109-02-02-06 (1) for consistency.

Dickinson Police Department Captain Joe Cianni provided written comment that 109-02-03-02 needed further clarification as the number of times the use of force test could be taken was not addressed. The board all agreed to add the following new language at the end of 109-02-03-02 (1) to read as follows: An individual may attempt the use of force examination three times. Only one attempt may occur in any twelve-hour period. If those three attempts are unsuccessful, the individual must wait thirty days from the last unsuccessful attempt before retaking. After that period, the individual may attempt a single use of force examination. If the individual does not pass, they may not attempt the use of force examination for three hundred sixty-five days.

Mandan Police Chief Jason Ziegler provided written comment in the form of a poll that had been taken where 60.71% of the 28 respondents indicated they were in favor of changing the current language in 109-02-02-15 (1) from "twenty" hours to "thirty" hours. The Board agreed to keep the current language. It should be noted, Chief Ziegler voted with his association to change the language.

POST Board Executive Secretary Duane Stanley had written comment on changing the proposed language in 109-02-03-04 from the word "three" to "one". A previous board decision addressed this issue.

POST Board Executive Secretary Duane Stanley had written comment on adding the words "or place conditions upon" after the word revoke in the proposed language of 109-02-04-07.1 (1) along with adding the same language after the word revokes in 109-02-04-07.1 (3) for consistency. The Board all agreed to both language additions.

POST Board Executive Secretary Duane Stanley had written comment to add the word willfully in three different locations within 109-02-05-01 (4) (e). The Board all agreed to change the current language of 109-02-05-01 (4) (e) to read as follows: e. To willfully; lie, omit, provide false testimony, provide misleading information, ~~or~~ falsify written or verbal communications in reports when the information may be relied upon by the courts, state's attorneys, or other law enforcement officials.

After closing comments, Chairman Haugen adjourned the special meeting at 2:16 p.m.