

Integrity Bulletin

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The Kansas Commission on Peace Officers' Standards and Training (KSCPOST) is committed to providing the citizens of Kansas with qualified, trained, ethical, competent, and professional peace officers. It is also dedicated to adopting and enforcing professional standards for certification of peace officers to promote public safety and preserve public trust and confidence.

“When did you change that?”

“When did the law change?”

“We have always done it that way!”

These are all common statements and questions posed by agency heads and officers regarding law enforcement certification, central registry forms, and compliance. Most of the questions arise not because of “changes,” but because mistakes and errors are discovered more routinely—mostly because the central registry is fully staffed and more efficient in performing their duties. The demographics form and the provisional certification of new law enforcement are areas where agencies commonly make errors.

A common misconception is that an agency has time (between when they hire a law enforcement officer and when that officer starts the academy) to finish the background to see if they meet the minimum requirements for certification. It should be noted that the requirements to attend the academy are separate and apart from KSCPOST certification (licensing) standards.

Pursuant to K.S.A. 74-5605(b) “the applicants appointing authority or agency head shall furnish to the ... commission certifying that the applicant has been found to meet the minimum requirements of certification ...” and “[t]he commission may rely upon the statement of the appointing authority or agency head as evidence that the applicant meets the minimum requirements for certification to issue a provisional certification.” This statement is contained within the KSCPOST “Demographic and Employment Information Form” and is what the commission relies upon to issue a provisional law enforcement certification.

K.S.A. 74-5611a(c) requires an agency to submit a KSCPOST "Demographic and Employment Information Form" within 30 days from the date of hire of a law enforcement officer. This should not be viewed as an extra 30 days to complete the background or in any way relieve the agency of their obligations prior to hire.

K.S.A. 74-5607a(c)(1) states that "any person who is appointed or elected as a ... law enforcement officer and who does not hold a certification as required ... may be issued a provisional certification for a period of one year."

K.A.R 106-2-1(f) defines "law enforcement officer" to mean those who have been granted any certification by the commission, including provisional certification. No provisional certification can be issued until the applicant is found to have met the minimum requirements for certification as provided in K.S.A. 74-5605(b) (1) through (8).

With the statutes and regulation in mind, a law enforcement officer - by definition - must meet the minimum requirements to be certified on the day they start to work for an agency.

The purpose of the Demographic and Employment Information Form (CR301) is to document that the candidate meets all the requirements to be an officer in Kansas. Only when a candidate meets all of the requirements can they become provisionally certified (K.A.R 106-2-1(f)). The provisional certification allows the candidate officer to be employed and work as a law enforcement officer until he or she completes the next available academy. KSCPOST relies on the data submitted in Form CR301 to issue a certification (license) to function in the law enforcement profession in Kansas. Please be mindful that this form is signed under penalty of perjury by the hiring authority. Numerous concerns are raised when a hiring authority signs that a candidate officer meets the requirements when they do not.

For example, an agency sends the demographic form to KSCPOST and swears an applicant is 21 years of age but he or she is only 20. KSCPOST assumes that the agency diligently confirmed the applicant's age and provisionally certifies the new hire to be an officer in Kansas. Under the provisional certification, the agency sends the officer out to perform law enforcement duties. However, the officer does not meet the qualifications to be an officer and can't perform law enforcement duties. Tickets written or arrests made would be challenged because the "officer" was not qualified. Cases could be dismissed. The officer themselves may face liability for performing as a law enforcement officer when they are not – because they do not meet the qualifications. The agency and/or agency head could be held liable or, at the minimum, embarrassed for employing officers that are not qualified.

The above age requirement example was used to keep this explanation concise. Any qualifications listed in the training act can be substituted for age in the above explanation. More commonly discovered than age is that agencies certify the candidate officer meets the following requirement when in fact they have not completed psychological testing:

“Be free of any physical or mental condition which adversely affects the ability to perform the essential functions of a police officer or law enforcement officer with reasonable skill, safety and judgement.”

If appropriate psychological testing has not been completed, a hiring authority cannot know that the candidate officer meets the qualifications to be an officer.

Both KLETC and KSCPOST usually discover that testing has not been completed and the candidate officer does not meet qualifications when agencies enroll newly hired officers in either full-time or part-time basic training at KLETC. KLETC requires separate documentation of the psychological testing for enrollment in the academy.

Take-aways for Hiring Authorities:

Agencies should ensure candidate officers meet all certification requirements prior to signing the form under penalty of perjury. A hiring authority cannot say an applicant meets requirements before completing appropriate background investigations and testing.

Candidate officers cannot be provisionally certified until they meet all the qualifications to be a law enforcement officer (K.A.R. 106-22-1(f)).

An individual cannot perform the functions of a law enforcement officer unless they are provisionally certified.

Any work performed by an improperly provisionally certified officer (traffic tickets, reports, evidence collection, etc.) could be challenged.

The demographic form requires the date the officer is employed as a law enforcement officer. Agencies may hire a person as a civilian until they have documented, through background investigation and testing, that the candidate meets all the requirements to be a law enforcement officer. The law enforcement officer hire date must be a date later than the date of the psychological testing (as well as fingerprint exam results, etc.)

The agency has liability in many forms when employing an officer who does not meet the requirements to be an officer.

KSCPOST routinely conducts reviews to ensure agencies and officers are in compliance. Accurate and timely submitted records protect agencies and officers and help our profession better serve Kansas.

Case Summaries:

An officer was convicted of Domestic Battery (a misdemeanor crime of domestic violence).

His certification was revoked by Summary Order as a result of violations of K.S.A. 74-5605(b)(3) and K.S.A. 74-5616(b)(1) – **Misdemeanor crime of domestic violence conviction.**

An officer (while on duty, in his patrol vehicle, and in uniform) repeatedly stopped by the place of employment and residence of a woman he had met while working a domestic violence report. The woman said that the officer was hitting on her and it made her uncomfortable. The officer lied to his department when questioned about his conduct. In a separate incident, the respondent lied in an official report concerning a lost property call. Additionally, he lied to his department when questioned about his conduct. The officer admitted to lying prior to taking a polygraph exam.

His certification was revoked by Summary Order as a result of violations of K.S.A. 74-5616(b)(1), K.S.A. 74-5605(b)(5), K.A.R. 106-2-4 **Good Moral Character**, K.S.A. 74-5616(b)(7), K.A.R. 106-2-3(h) **Unprofessional Conduct, exploiting or misusing the position as an officer to establish or attempt to establish financial, social, sexual, romantic, physical, intimate, or emotional relationship**, and K.A.R. 106-2-3(j)(1) **Unprofessional Conduct, intentionally using a false or deceptive statement in an official document or official communication.**

A deputy allowed two female inmates to spend time together in a jail cell and observed them while they were engaged physically. The deputy also made sexually suggestive comments to several female inmates. The deputy lied in his official report regarding the incident and during his statement to Professional Standards. After being terminated, the deputy was hired as an officer by another law enforcement agency. He provided false information during the hiring process and resigned in lieu of being terminated once it was discovered. The deputy/officer did not cooperate with the KSCPOST investigation.

His certification was revoked by Summary Order as a result of violations of K.S.A. 74-5616(b)(1), K.S.A. 74-5605(b)(5), K.A.R. 106-2-4 **Good Moral Character**, K.S.A. 74-5616(b)(7), K.A.R. 106-2-3(h) **Unprofessional Conduct, exploiting or misusing the position as an officer to establish or attempt to establish financial, social, sexual, romantic, physical, intimate, or emotional relationship**, K.A.R. 106-2-3(j)(1) **Unprofessional Conduct, intentionally using a false or deceptive statement in an official document or official communication**, and K.S.A. 74-5616(b)(3) **failing to cooperate in a commission investigation to determine a person's continued suitability for law enforcement certification.**

An officer was arrested and charged with misdemeanor assault and criminal damage to property after an altercation with his estranged wife and one of her friends. The officer entered a plea and was convicted of misdemeanor criminal damage to property. The assault charge was dismissed pursuant to the plea.

His certification was revoked by Summary Order as a result of violations of K.S.A. 74-5616(b)(5), K.A.R. 106-2-2a(a)(30) **engaged in conduct which, if charged as a crime, would constitute a misdemeanor crime that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant, i.e. Criminal Damage to Property.**

It should be noted that K.A.R. 106-2-2a(c) states that a certified copy of the order or journal entry documenting conviction of a misdemeanor shall constitute prima facie evidence of having engaged in such conduct.

An officer was convicted of two felony counts of Sex Assault on a Child in El Paso County Colorado.

His certification was revoked by Summary Order as a result of violations of K.S.A. 74-5605(b)(3) and K.S.A. 74-5616(b)(1) – **Felony conviction.**

An officer (while on duty, in his patrol vehicle, and in uniform) offered a young woman a ride home from a bar. On the ride home, the officer asked if he could see and then fondled her breasts without her consent. The woman reported the officer's conduct once she arrived home.

The officer's certification was revoked following a hearing held before the Commission's Hearing Committee as a result of violations of K.S.A. 74-5616(b)(1), K.S.A. 74-5605(b)(5), K.A.R. 106-2-4 **Good Moral Character**, K.S.A. 74-5616(b)(5), K.A.R. 106-2-2a(a)(12) **engaged in conduct which, if charged as a crime, would constitute a misdemeanor crime that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant, i.e. Sexual Battery**, and K.S.A. 74-5616(b)(7), K.A.R. 106-2-3(h) **Unprofessional Conduct, exploiting or misusing the position as an officer to establish or attempt to establish financial, social, sexual, romantic, physical, intimate, or emotional relationship.**

An officer, while attending an in-service training course, witnessed the instructor set a folder down containing the course test and answers. The officer took the test out and took pictures of it. The respondent stated he did so to see if he could find out anything that would help him on the exam.

His certification was revoked by Summary Order as a result of violations of K.S.A. 74-5616(b)(1), K.S.A. 74-5605(b)(5), K.A.R. 106-2-4 **Good Moral Character**.

An officer entered into a diversion agreement for one (1) felony count of Making a False Information.

His certification was revoked by Summary Order as a result of violations of K.S.A. 74-5605(b)(3) and K.S.A. 74-5616(b)(1) – **Felony conviction**.

It should be noted that K.S.A. 74-5605(d) defines “conviction” for purposes of the training act to include any diversion agreement entered into for a felony.

An officer entered into a diversion agreement for one (1) count each of Domestic Battery (a misdemeanor crime of domestic violence), Battery, Criminal Damage to Property, Assault on a Law Enforcement Officer, Violation of a Protective Order, and Stalking.

His certification was revoked by Summary Order as a result of violations of K.S.A. 74-5605(b)(3) and K.S.A. 74-5616(b)(1), K.S.A. 74-5616(b)(5), K.A.R. 106-2-2a(a)(5), (6), (10), (30), and (44) **engaged in conduct which, if charged as a crime, would constitute a misdemeanor crime that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant, i.e. Battery, Criminal Damage to Property, Assault on a Law Enforcement Officer, Violation of a Protective Order, and Stalking**.

It should be noted that K.S.A. 74-5605(d) defines “conviction” for purposes of the training act to include any diversion agreement entered into for a misdemeanor crime of domestic violence.

An officer was convicted of one (1) felony count of Stalking and one (1) misdemeanor count of Violation of a Protective Order.

His certification was revoked by Summary Order as a result of violations of K.S.A. 74-5605(b)(3), K.S.A. 74-5616(b)(1) – **Felony Conviction**, K.S.A. 74-5616(b)(5), and K.A.R. 106-2-2a(a)(44) **engaged in conduct which, if charged as a crime, would constitute a misdemeanor crime that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant, i.e. Violation of a Protective Order**.

An officer was convicted of one (1) felony count of Aggravated Assault, two (2) felony counts of Criminal Threat, and one (1) count of Domestic Battery (a misdemeanor crime of domestic violence).

His certification was revoked by Summary Order as a result of violations of K.S.A. 74-5605(b)(3) and K.S.A. 74-5616(b)(1) – **Felony and misdemeanor crime of domestic violence conviction.**

KSCPOST Staff

Gary Steed, Executive Director

gsteed@kscpost.org

Eric Williams, Legal Counsel

ewilliams@kscpost.org

Matt Deffner, Central Registrar

mdeffner@kscpost.org

Katherine Green, Assistant Central Registrar

kgreen@kscpost.org

John Gaunt, Investigator

jgaunt@kscpost.org

Jackie Stuart, Investigator

jstuart@kscpost.org

Darren Moore, Investigator

dmoore@kscpost.org

David Thompson, Investigator

dthompson@kscpost.org

Rose Ann Ohmart, Administrative Assistant

rohmart@kscpost.org

Address

KSCPOST

1999 N. Amidon

Suite #350

Wichita, Kansas 67203-2180

Phone

Office: 316-832-9906

FAX: 316-832-9679

Website

www.kscpost.org