

APA-1
07/04

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. 650 Department or Agency Alabama Peace Officers' Standards and Training Commission
Rule No. Entire Chapter 650-X-2
Rule Title: ADMITTANCE TO TRAINING ACADEMY
_____New ___x___ Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?Yes

Is there another, less restrictive method of regulation available that could adequately protect the public?No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?Yes

Does the proposed rule have an economic impact?No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer 

Date 6-20-2014

(DATE FILED)

APA-2
07/04

Alabama Peace Officers Standards and Training Commission

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Peace Officers Standards and Training Commission

RULE NO. & TITLE: Entire Chapter 650-X-2 Admittance to Training Academy

INTENDED ACTION: The Alabama Peace Officers' Standards and Training Commission proposes to Amend 650-X-2

SUBSTANCE OF PROPOSED ACTION: This action amends the Title of this Chapter to better identify the requirements for appointment and certification of law enforcement officers. This action is proposed to amend the language of this chapter to comply with Code of Alabama 1975, 36-21-46 and to meet the requirements of ACT 2014-245. This amendment will define a valid High School diploma. It also clarifies other forms of education, such as a GED or college degree, which will meet the education requirements for appointment as a law enforcement officer. It establishes a requirement that all applicants for the law enforcement training academies pass a law enforcement basic ability test approved by the Commission. This proposed action amends the Rule for Character so as to comply with Code of Alabama 1975, 36-21-40 et seq., and Act Number 2014-292 which relates to the expungement of records. Non-substantive changes related to sentence structure and grammar are made to better express the intent of the Rules.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Views must be presented either by telephone, in writing, or in person. A public hearing will be conducted on June 30, 2014 at 10:00 a.m. The hearing will be at commission headquarters which is located at:

100 North Union Street, Suite 600
Montgomery, Alabama 36130
(334) 242-4045

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Final date for comment and completion of notice will be August 7, 2014.

CONTACT PERSON AT AGENCY: Chief R. Alan Benefield
334-242-4047
Executive Secretary



Chief R. Alan Benefield

**ALABAMA PEACE OFFICERS STANDARDS AND TRAINING COMMISSION
ADMINISTRATIVE CODE**

CHAPTER 650-X-2

**ADMITTANCE TO TRAINING ACADEMY REQUIRED STANDARDS FOR
APPOINTEES AS LAW ENFORCEMENT OFFICERS AND FOR APPLICANTS FOR
CERTIFICATION AS LAW ENFORCEMENT OFFICERS**

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RULE 650-X-2-.01 Training. The applicant must be gainfully employed as a law enforcement officer by a law enforcement agency at the time of his/her application to the academy. For the purpose of this Chapter the term Law Enforcement Officer includes Correctional Officers employed by the Alabama Department of Corrections. Prior to certification, the applicant shall complete the required course of training established by the Commission. An applicant may be provisionally appointed for a period of six months. No individual may be employed for an additional period until that individual is certified by the commission.

(1) Each applicant must be gainfully employed as a full time law enforcement officer by a law enforcement agency at the time of his/her application to the academy.

(a) Full time is understood to mean 40 hours per week or to average out to 40 hours per week during the monthly or bi-weekly pay periods of most agencies.

(b) A law enforcement agency hiring employing an applicant working less than 40 hours per week must request in writing a ~~written~~ waiver from the ~~Commission~~ Executive Secretary ~~for~~ requesting the applicant to attend an academy.

(2) Prior to certification, the applicant shall complete the required course of training established by the Commission.

(3) An applicant may be provisionally appointed for a period of six months.

(a) Provisional appointment requires:

(1) An application package as set out in Rule 650-X-2-.09 has been submitted on the first day of employment as stipulated in Rule 650-X-1-.16(4) and has been received by the Commission.

(2) ~~An applicant~~ A provisionally appointed law enforcement officer who is involved in patrol operation for the purpose of detection, prevention and suppression of crime or the enforcement of the traffic or highway laws of the state, including exercising the power of arrest, will be under the direct control and supervision of a certified law enforcement officer.

(3) Traffic direction and control may be performed by a provisionally appointed law enforcement officer without direct supervision, provided, however, that supervisory control is exercised by a certified law enforcement officer whose total span of control would be considered within reasonable limits.

(4) ~~Applicants~~ A provisionally appointed law enforcement officer may render crowd control assistance at public gatherings or governmental functions as directed by their employing law enforcement agency provided supervisory control ~~will be~~ is exercised by a certified law enforcement officer whose span of control would be considered within reasonable limits.

(5) The provisional appointment is valid for a total of six (6) months (180 days) during a two (2) year period of (730 days) from the time of first appointment by any law enforcement agency.

(6) This six month period to complete his/her required course of training cannot be extended or re-started by an applicant being terminated or ~~re-hired~~ re-employed by the same or another law enforcement agency nor by an applicant voluntarily changing employment from one law enforcement agency to another. Each day of the six-month provisional appointment is cumulative no matter how many law enforcement agencies the applicant has worked for during his/her six-month provisional appointment.

(7) The provisional appointment of any applicant who does not complete the required course of law enforcement training within six months from the date of his/her initial hiring employment/appointment is null and void.

(8) ~~An~~ A provisionally appointed applicant who fails to achieve certification, as required herein, within his/her six months provisional appointment time, may not re-apply for employment/appointment as a law enforcement officer for two years following the expiration of their provisional appointment time. application package may again be submitted by a law enforcement agency on an applicant two years after they have left a law enforcement agency where they did not attain certification as required herein.

~~(9) Provisional appointment does not apply to unpaid, volunteers, auxiliaries, or reserves who do not have the power of arrest.~~

Author: R. Alan Benefield, Executive Secretary

Statutory Authority: Code of Alabama 1975, ~~§36-21-45, §36-21-46, 36-21-40 et seq.,~~

History: Effective Date: September 29, 1983. Amended May 9, 1997, Amended: February 4, 1999, Amended June 20, 2014

RULE 650-X-2-.02 Age. The applicant shall not be less than 19 years old.

Author: R. Alan Benefield, Executive Secretary

Statutory Authority: Code of Alabama 1975, ~~§36-21-40, §36-21-51, 36-21-40 et seq.,~~

History: Effective Date: September 29, 1983, Amended June 20, 2014.

RULE 650-X-2-.03 Education Requirement. ~~The applicant shall have graduated and received a regular or advanced high school diploma as approved or recognized by the Alabama State Department of Education. In the instance of a private high school diploma, or a high school diploma earned outside Alabama, the diploma must be equivalent to the regular or advanced diploma issued by the public schools in Alabama and approved by the State Board of Education. The State Board of Education/State Department of Education recognizes as accredited schools only those public and private schools that are accredited or recognized by the Southern Association of Colleges and~~

~~Schools (SACS). (Alabama Administrative Code Rule 290 3 1 .02 and State Department of Education Memorandum of June 25, 2004 which states how the State Department of Education interprets said Rule.) A certificate of high school equivalency issued by General Education Development (GED) is acceptable. Correspondence or mail order high school diplomas or certificates are not acceptable.~~

The applicant shall meet the following education requirements:

(1) Possess a valid high school diploma as defined in a, b, or c:

(a) Earned from an accredited high school in Alabama and is the equivalent of a regular academic diploma recognized by the State Department of Education. Or earned another type diploma at said high school and also have achieved a minimum American College Testing (ACT) score of 18.

(b) Earned from a non-accredited high school which is recognized by the State Department of Education and has achieved a minimum ACT score of 18.

(c) Earned in another state from a high school accredited by an accrediting agency recognized by the Alabama State Department of Education and is the equivalent of a regular academic diploma recognized by the State Department of Education. Or earned another type diploma at said high school and achieved a minimum ACT score of 18. Or,

(2) Possess a valid General Education Development (GED) certificate. On-line, correspondence or mail order GED certificates are not acceptable. Or,

(3) Possess an earned Associate's Degree or higher Degree from a College or University accredited by the Southern Association of Colleges and Schools (SACS), or its equivalent. And,

(4) In addition to meeting one (1) of the three (3) requirements listed above, the applicant shall take and pass a Law Enforcement Basic Abilities Test (BAT), approved by the Commission, prior to employment or certification as a law enforcement officer. The BAT is required of all applicants except those applicants who are already APOSTC certified and are required to complete Refresher training for reinstatement of their Certification.

A. The BAT may only be taken at a Commission approved testing center. Test results from unapproved test sites are not acceptable. Commission approved testing centers shall restrict access to the BAT to those applicants who present authorization (APOST Form Number 11) from his/her employing agency and who produce a valid photo identification. Proctors shall validate the name, date of birth, gender and social security number of each applicant to ensure that the information given by the applicant is consistent with their driver license and departmental authorization.

B. The applicant shall not engage in conduct that subverts or attempts to subvert the BAT process.

C. The applicant shall not violate the standards of the BAT test administration.

D. The applicant shall not violate the application identification process. Conduct that violates the process is identified as, but not limited to, the following:

(1) Falsifying or misrepresenting information required for admission to the BAT.

(2) Impersonating an applicant.

(3) Having an impersonator take the BAT on one's behalf.

(4) Disrupting the test administration.

E. Any violation of this provision shall be documented and reported to the Commission's Executive Secretary in writing. The Executive Secretary shall then conduct an immediate investigation of the reported violation(s).

F. When the Commission finds that a violation of Section (4) A,B,C, or D, of this rule the Commission shall impose one or more of the following sanctions:

(1) Declare the applicant has failed the BAT;

(2) Declare the applicant ineligible to apply to take the BAT in any discipline for a period of five years;

(3) Deny certification by the Commission.

(4) Take action against any currently held certification.

G. A Passing score on the Commission approved BAT is valid two years from date of the test. The applicant shall not take the BAT more than two times during any twelve month period.

Author: R. Alan Benefield, Executive Secretary

Statutory Authority: Code of Alabama 1975, §36-21-40, §36-21-51, 36-21-40 et seq., ACT Number 2014-245

History: Effective Date: September 29, 1983. Amended: February 24, 2000, Amended: September 8, 2006, Amended June 20, 2014.

RULE 650-X-2-.04 Physical Qualifications. The applicant shall be certified on APOST Form Number 3, by a licensed physician, designated by the appointing authority, as in good health and physically fit for the performance of the duties of a law enforcement officer.

Author: R. Alan Benefield, Executive Secretary

Statutory Authority: Code of Alabama 1975, §36-21-40, §36-21-51, §36-21-40 et seq.,

History: Effective Date: September 29, 1983. Amended: June 12, 1995, Amended: May 9, 1997, Amended June 20, 2014

RULE 650-X-2-.05 Character.

(1) The applicant shall be a person of good moral character and reputation;

(2) Conviction of any felony pursuant to any state or federal law shall be a complete and absolute bar to certification, employment, appointment or approval as a law enforcement officer.

(a) The existence of a pardon does not nullify a conviction for the purpose of this Rule.

(b) An applicant having pleaded guilty or nolo contendere to any felony pursuant to state or federal law is not eligible for certification, employment, appointment or approval as a law enforcement officer, notwithstanding suspension of sentence or withholding of adjudication.

(c) Conviction of any conduct, including a plea of guilty or nolo contendere, in any other jurisdiction that would have constituted a felony in Alabama and been punishable by a sentence exceeding one year in Alabama shall be a complete and absolute bar to certification, employment, appointment or approval as a law enforcement officer, notwithstanding suspension of sentence, withholding of adjudication or the existence of a pardon.

(d) An applicant shall disclose and produce to the Commission, any expunged record of any arrest, regardless of the disposition of the case. For the purpose of certification and regulation of law enforcement and correctional officers the Commission shall have access to any expunged records sealed or archived.

(3) Conviction of a misdemeanor pursuant to any municipal, state or federal law shall not automatically disqualify a person as a law enforcement officer. Such a conviction may be considered as a factor among several in evaluating fitness as a law enforcement officer, which factors shall include but not be limited to the nature and gravity of the offense or offenses, the time that has passed since the conviction and/or completion of the sentence and the nature of the job held or sought and such other factors as to affect the applicant's character. In the case of a misdemeanor conviction involving a guilty plea or plea of nolo contendere, involving force, violence, moral turpitude, perjury, or false statements, notwithstanding suspension of sentence or withholding of

adjudication, results of psychological testing shall also be considered as a factor in considering the applicant's fitness as a law enforcement officer.

(a) The psychological test administered to law enforcement officers will be approved by the Commission.

(b) At the request of the agency, and at the expense of the applicant or agency, a complete comprehensive psychological evaluation may be approved for an applicant who fails the psychological test. This complete comprehensive psychological evaluation will be administered by an agency selected by the Commission and must be given immediately after the failure of the first test.

(c) The results of the psychological test will be furnished to the Commission. The psychological test results must include a statement of whether or not the person is recommended for law enforcement.

(d) If an applicant fails the psychological test, he/she must wait one year to be eligible to submit a new application package requesting to attend the academy. This does not exempt the applicant from Rule 650-X-2-.01.

(4) Adjudication as a youthful offender or juvenile shall not be considered as a conviction for the purpose of these Rules.

(5) Any person who is prohibited by state or federal law from owning, possessing, or carrying a firearm, including but not limited to a pistol, handgun, rifle or shotgun, shall not be employed or certified as a law enforcement officer.

(6) Any person who is required to register as a convicted sex offender as defined in Title 13A-11-200, Code of Alabama, 1975, as amended, shall not be employed or certified as a law enforcement officer.

(7) The arrest of any certified law enforcement officer, provisionally appointed law enforcement officer, or applicant for any felony or misdemeanor offense shall be immediately reported to the Commission by the employing agency, arresting agency and the law enforcement officer.

(8) Applicants who falsify their application ~~must wait two years to be~~ are ineligible eligible to submit a new application package requesting for employment as a law enforcement officer and they are ineligible to attend the academy for certification as a law enforcement officer. Applicants who are determined to have falsified their applications are barred from employment or certification as a law enforcement officer for two (2) years.

(9) No law enforcement officer ~~or correctional officer~~, either certified or provisionally appointed, shall knowingly and willfully provide false or misleading information to the Commission or any of its agents.

(10) No law enforcement officer ~~or correctional officer~~ shall knowingly and willfully violate the Rules and Regulations of the Commission.

(11) Any law enforcement officer ~~or correctional officer~~ who knowingly and willfully provides false or misleading information to the Commission or its agents, or who knowingly and willfully violates the Rules and Regulations of the Commission, shall be subject to having their Certification suspended or revoked by the Commission.

Author: R. Alan Benefield, Executive Secretary

Statutory Authority: Code of Alabama 1975, §36-21-46. 36-21-40 et seq., Act Number 2014-

History: Effective Date: September 29, 1983. Amended June 12, 1995, Amended: February 4, 1999, Amended March 14, 2002, Amended: September 8, 2006, Amended: February 13, 2009, Amended June 20, 2014.

RULE 650-X-2-.06 Applicants To Be Citizens. The applicant must be a citizen of the United States.

Author: R. Alan Benefield, Executive Secretary

Statutory Authority: Code of Alabama 1975, §36-21-40, §36-21-51. 36-21-40 et seq.,

History: Effective Date: September 29, 1983. Amended June 20, 2014.

RULE 650-X-2-.07 Discharge from Armed Services. If an applicant has been a member of the armed forces of The United States, ~~the~~ each and every discharge must be under honorable conditions.

Author: R. Alan Benefield, Executive Secretary

Statutory Authority: Code of Alabama 1975, §36-21-40, §36-21-51. 36-21-40 et seq.,

History: Effective Date: September 29, 1983. Amended: February 4, 1999, Amended: June 20, 2014.

RULE 650-X-2-.08 Driver's License. The applicant must have a valid Driver's License.

Author: R. Alan Benefield, Executive Secretary

Statutory Authority: Code of Alabama 1975, §36-21-40, §36-21-51. 36-21-40 et seq.,

History: Effective Date: September 29, 1983. Amended: June 20, 2014.

RULE 650-X-2-.09 Application Package Required.

(1) ~~Application Package.~~ Each applicant for certification as a law enforcement shall submit a admittance to a training academy shall complete an application package in the form prescribed by the Commission and ~~supplied~~ provided by the Executive Secretary. An incomplete application will not be processed. An application which appears to be falsified or contains false information will be denied.

(2) Documentation. ~~The~~ All documents listed below must be received by the Executive Secretary before an application package will be processed.

(a) Each applicant ~~for admittance to a training academy~~ shall complete an electronic application form. All required paper documents shall ~~Application forms must~~ be printed or typewritten, ~~and all~~ All documents ~~items on the form~~ must be completed fully. Incomplete electronic applications and paper documents will not be processed and will be returned to the employing agency.

(b) Certification by a licensed physician (APOST Form Number 3) that the applicant is physically able to participate in the required law enforcement training program.

(c) Each applicant ~~for admittance to a training academy~~ shall submit an affidavit (APOST Form Number 2) ~~which certifies~~ certifying that he/she ~~has met~~ meets all ~~the~~ requirements for employment and certification as a law enforcement officer under the provisions of Title 36-21-46, Code of Alabama, 1975.

(d) Each applicant ~~for admittance to a training academy~~ shall submit ~~a copy of his/her High School Diploma or G.E.D. documents~~ which reflect that the applicant meets the Education requirements of 650-X-2-.03

(e) Each applicant ~~for admittance to a training academy~~ shall submit two APOST O.R.I. ORI fingerprint cards.

(f) Each applicant ~~for admittance to a training academy~~ shall submit a release of information form (APOST Form Number 4).

Author: R. Alan Benefield, Executive Secretary

Statutory Authority: Code of Alabama 1975, §36-21-40, §36-21-51, 36-21-40 et seq.

History: Effective Date: September 29, 1983. Amended: June 12, 1995, Amended: May 9, 1997, Amended: June 20, 2014.