

**1002.**

**MINIMUM STANDARDS FOR EMPLOYMENT OR  
APPOINTMENT OR CONTINUED EMPLOYMENT**

- (1) Subject to the provisions of A.C.A. 12-9-106(e), no individual shall serve, be employed or otherwise function as a law enforcement officer in this State who is not certified by the Commission at the appropriate classification for the position held by the individual, except, an individual may serve, be employed or otherwise function as a law enforcement officer for a term of nine (9) months from his initial employment or appointment as a law enforcement officer. Upon the finding of extraordinary circumstances, the Commission, by majority vote, may extend this period by a maximum of three (3) months, for an absolute maximum period of twelve (12) months. (See Regulation 1008 for exceptions.) All requests for extensions must be submitted and received by the Commission prior to the end of the nine (9) month period, or any extension thereof. No individual who has been decertified by the Commission shall be eligible to serve, be employed or otherwise function as a law enforcement officer in this State unless the Commission shall have by majority vote agreed that the individual shall again be eligible to so serve.
- (2) Verification of minimum employment standards must be maintained by the employing department.
- (3) Every officer employed by a law enforcement unit shall:
  - (a) Be a citizen of the United States. (See Specification S-1)
  - (b) Be at least 21 years of age. (See Specification S-1)
  - (c) Be fingerprinted and a search initiated of state and national fingerprint files to disclose any criminal record. Procedure is prescribed in Specification S-2, Fingerprint Record Check.
  - (d) Be free of a felony record. A felony record shall mean having entered a plea of guilty, been found guilty, or otherwise having been convicted of an offense, the punishment for which could have been imprisonment in a federal penitentiary or a state penitentiary. The fact that an individual has received a pardon, or their record has been expunged shall not release the individual from having a felony

record for the purposes of this regulation. (See Specification S-2).

- (e) Be of good character as determined by a thorough background investigation as prescribed in Specification S-3, The Background Investigation.
- (f) Be a high school graduate or have passed the General Education Development (GED) Test indicating high school graduation level. (See Specification S-4) Home school diplomas will not substitute for the above unless approved by the Commission.
- (g) Be examined by a licensed physician and meet the physical requirements prescribed in Specification S-5, Physical Examination.
- (h) Be interviewed personally prior to employment by the department head or his representative, or representatives to determine such things as the applicant's motivation, appearance, demeanor, attitude and ability to communicate. Commission Form F-11, Qualifications Appraisal Guide, or other appropriate form may be used to record the interview. (See Specification S-6)
- (i) Be examined by an individual licensed to practice psychiatry or psychology and qualified to perform such evaluations in the State of Arkansas, who after examination finds the officer to be competent and recommends the agency hire the individual. (See Specification S-7)
- (j) Possess a valid driver's license.
- (k) Successfully complete a CLEST firearms qualification and review departmental policies, specifically policies covering the use of force, criminal law, and emergency vehicle operations. (No officer may carry a firearm in the course of employment or in the performance of official duties until this requirement is met and documented on the Initial Employment Report (F-1) submitted to the Office of Law Enforcement Standards.

- (l) For continued employment, must successfully complete a minimum of sixteen (16 hours of CLEST certified training annually, to include firearms qualification and racial profiling.
  - (m) Be free of a misdemeanor domestic violence conviction, in accordance with 18 USC section 922.
- (4) It is emphasized that these are minimum standards for employment or appointment. Higher standards are recommended whenever the availability of qualified applicants meets the demand.
  - (5) The minimum standards for employment or appointment must be complied with as contained herein before employment. The decision to employ an applicant should depend upon the results and recommendations received by the investigators and examiners, except, for items (3)(g) and (3)(i). In accordance with the Americans with Disabilities Act, a determination to hire or not hire individuals should be made prior to the examinations required by (3)(g) and (3)(i). An offer of employment, if any, is to then be made contingent upon the successful completion of (3)(g) and (3)(i).
  - (6) Law enforcement officers who have complied with the minimum standards for employment or appointment who ~~terminate- separate from~~ their employment and are reemployed by a law enforcement agency within six(6) months following their ~~termination~~ separation date, may transfer the required documentation evidencing compliance with the standards to the files of the new agency. The only pre-employment requirement that the new employer will be required to complete is a new background investigation and oral interview. The employing agency may require the officer to meet any or all pre-employment requirements, again, if they so desire.
  - (7) If an officer is determined by the Commission to be in noncompliance, the Commission will notify the director of the employing agency by certified letter. The Commission shall give the individual and the employing agency a reasonable amount of time to remedy the deficiency. If at the end of that period, including any extension thereof, the individual remains in noncompliance, the individual will not be eligible to function as a law enforcement officer until proof of compliance is presented to

the Commission by the agency director or his representative. In addition, at the end of the period allowed by the Commission for the individual to remedy the deficiency, including any extensions thereof, if the officer remains in noncompliance, the officer will be removed from the agency payroll and will not be eligible to be employed in any capacity as a law enforcement officer until compliance is met and proof is furnished to the Commission by the agency director or his representative. In the event the agency refuses to remove the officer from the payroll and/or continues to allow the officer to serve as a law enforcement officer, the Commission shall seek an injunction prohibiting the agency from employing and/or using the officer and prohibiting the officer from acting as a law enforcement officer.

- (8) Any individual who fails the required training course, as set out herein, or is expelled from the required training course, will not be eligible to serve as a law enforcement officer for twenty-four (24) months following the date of failure or expulsion from the training course.
- (9) Any individual who fails to meet the physical or mental minimum standards of this Regulation shall be individually reviewed to determine if said person can perform the essential functions of the duties of a law enforcement officer, with or without reasonable accommodations. The employing or appointing agency shall first determine if the individual can perform the essential functions of the duties of a law enforcement officer. If the agency believes that individual can perform the essential functions of the duties of a law enforcement officer, with or without reasonable accommodations, the employing or appointing agency shall request the Commission to determine if said person can perform the essential functions of the duties of a law enforcement officer. If the Commission determines, by a majority vote, that the individual can perform the essential functions of a law enforcement officer, with or without reasonable accommodations, and the employing or appointing unit and/or the individual agrees to the reasonable accommodations, then the Commission shall waive the minimum standard in question.

(10) The Commission on Law Enforcement Standards and Training (CLEST) administers the program "Veterans to Law Enforcement," which allows qualified military veterans interested in pursuing a career in law enforcement, to attend the police academy.

(a) To be eligible to apply for the program, applicants must meet the following requirements:

- i. Shall have served at least six (6) months active duty in the armed services within ten (10) years prior to application.
- ii. Meet minimum standards as required of an Arkansas law enforcement officer as specified in CLEST Regulation 1002.
- iii. Pay the non-refundable cost of the training prior to attending the basic training course.
- iv. The Director of CLEST will be the final approving authority for an applicant's acceptance into the program.

(b) Veterans in the Veterans to Law Enforcement program that fail any portion of the basic police training course are not eligible to attend another course for a 24 month period as specified in CLEST regulation 1005 and are no longer eligible to apply for the Veterans to Law Enforcement program.

(c) Veterans in the Veterans to law Enforcement program that successfully complete the basic police training course must begin employment with a law enforcement agency as a full-time or part-time officer within three (3) years of the date of the completion of the basic training course for the training to remain valid.

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS**  
**WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

**DEPARTMENT/AGENCY** Commission on Law Enforcement Standards and Training  
**DIVISION** Office of Law Enforcement Standards  
**DIVISION DIRECTOR** Jami Cook  
**CONTACT PERSON** Jami Cook  
**ADDRESS** 4 State Police Plaza Drive Little Rock, AR 72209  
**PHONE NO.** 5016822260 **FAX NO.** 5016821582 **E-MAIL** jami.l.cook@arkansas.gov  
**NAME OF PRESENTER AT COMMITTEE MEETING** Jami Cook  
**PRESENTER E-MAIL** jami.l.cook@arkansas.gov

**INSTRUCTIONS**

- A. Please make copies of this form for future use.  
B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.  
C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.  
D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis**  
**Administrative Rules Review Section**  
**Arkansas Legislative Council**  
**Bureau of Legislative Research**  
**One Capitol Mall, 5<sup>th</sup> Floor**  
**Little Rock, AR 72201**

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1. What is the short title of this rule? Regulation 1002, Minimum Standards for Employment or Appointment or Continued Employment
2. What is the subject of the proposed rule? Identifying the minimum standards for hiring law enforcement and continuing employment
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☒ No ☐  
If yes, please provide the federal rule, regulation, and/or statute citation. 18 USC section 922, 12-9-106
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes ☐ No ☒  
If yes, what is the effective date of the emergency rule? \_\_\_\_\_
- When does the emergency rule expire? \_\_\_\_\_

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes ☐

No ☐

5. Is this a new rule? Yes ☐ No ☒

If yes, please provide a brief summary explaining the regulation. \_\_\_\_\_

Does this repeal an existing rule? Yes ☐ No ☒

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. \_\_\_\_\_

Is this an amendment to an existing rule?

Yes ☒ No ☐

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. 12-09-104

7. What is the purpose of this proposed rule? Why is it necessary? Addresses home school diplomas in section (f), adds the veterans program in section (l) and (10), and addresses domestic violence convictions as defined in 18 USC section 922 in section (m)

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). CLEST.org

9. Will a public hearing be held on this proposed rule? Yes ☒ No ☐

If yes, please complete the following:

Date: January 14, 2016

Time: 10:00am

Place: ALETA, East Camden, AR

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

January 13, 2016

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

February 1, 2016

12. Do you expect this rule to be controversial? Yes ☐ No ☒

If yes, please explain. \_\_\_\_\_

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules?

Please provide their position (for or against) if known.

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## FINANCIAL IMPACT STATEMENT

### PLEASE ANSWER ALL QUESTIONS COMPLETELY

**DEPARTMENT**      Commission on Law Enforcement Standards and Training  
**DIVISION**        Office of Law Enforcement Standards  
**PERSON COMPLETING THIS STATEMENT** \_\_\_\_\_  
**TELEPHONE NO.** 501-682-2260 **FAX NO.** 501-682-1582 **EMAIL:** jami.l.cook@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE**      Regulation 1002, Minimum Standards for Employment or Continued Employment

1. Does this proposed, amended, or repealed rule have a financial impact?      Yes ☒      No ☐
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?      Yes ☒      No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered?      Yes ☒      No ☐

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

\_\_\_\_\_

- (b) The reason for adoption of the more costly rule;

\_\_\_\_\_

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

\_\_\_\_\_

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

\_\_\_\_\_

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

#### Current Fiscal Year

|                  |                             |
|------------------|-----------------------------|
| General Revenue  | <u>0</u>                    |
| Federal Funds    | <u>                    </u> |
| Cash Funds       | <u>                    </u> |
| Special Revenue  | <u>                    </u> |
| Other (Identify) | <u>                    </u> |

#### Next Fiscal Year

|                  |                             |
|------------------|-----------------------------|
| General Revenue  | <u>0</u>                    |
| Federal Funds    | <u>                    </u> |
| Cash Funds       | <u>                    </u> |
| Special Revenue  | <u>                    </u> |
| Other (Identify) | <u>                    </u> |

Total                      0

Total                      0

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

General Revenue    0  
Federal Funds                             
Cash Funds                                
Special Revenue                           
Other (Identify)                           
  
Total                                       

**Next Fiscal Year**

General Revenue    0  
Federal Funds                             
Cash Funds                                
Special Revenue                           
Other (Identify)                           
  
Total                                       

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

\$ 0

**Next Fiscal Year**

\$ 0

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6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ 0

**Next Fiscal Year**

\$ 0

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7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐      No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.