

ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD

Five-year-review Report: R13-4-103, R13-4-105, R13-4-107, R13-4-110, and R13-4-111

May 2016

Five-year-review Report

A.A.C. Title 13. Public Safety

Chapter 4. Arizona Peace Officer Standards and Training Board

INTRODUCTION

The Peace Officer Standards and Training Board (Board), which is established by A.R.S. § 41-1821, was created in 1968 to address the need for uniform minimum peace officer selection, recruitment, retention, and training standards and to provide curriculum and standards for all certified law enforcement training facilities. In 1984, the legislature charged the Board with the added responsibilities of approving a state correctional officer training curriculum and establishing minimum standards for state correctional officers. The Board is also responsible for administering the Peace Officer Training Fund, which receives approximately 16.64% of the monies generated by a surcharge on all criminal and traffic fines (See A.R.S. §§ 12-116.01 and 41-2401). During FY2015, the Fund received \$6,533,201.

The Board, whose mission is to foster public trust and confidence by establishing and maintaining standards of integrity, competence, and professionalism for Arizona peace officers and correctional officers, provides services to approximately 165 law enforcement agencies, 14,604 peace officers, and 5,807 correctional officers. There are 12 peace officer training academies.

In a rulemaking approved by the Council on February 2, 2016, the Board substantially amended all of its rules. This approved rulemaking went into effect on April 8, 2016. However, under the provision at A.R.S. § 41-1823(A), the five rules reviewed, which establish minimum qualifications for law enforcement officers, do not go into effect until August 8, 2016. On August 8, 2016, the five rules that are reviewed and the subject of this report will no longer exist.

Statute that generally authorizes the agency to make rules: A.R.S. § 41-1822(A)

1. Specific statute authorizing the rule:

R13-4-103: A.R.S. §§ 41-1822(A)(3) and 41-1823(B)

R13-4-105: A.R.S. § 41-1822(A)(3)

R13-4-107: A.R.S. § 41-1822(A)(3)

R13-4-110: A.R.S. § 41-1822(A)(4)

R13-4-111: A.R.S. § 41-1822(A)(4)

2. Objective of the rule including the purpose for the existence of the rule:

R13-4-103. Certification of Peace Officers: The objective of this rule is to clarify that active certified status is required to function as a peace officer; establish an exception to required certified status; establish the categories of certified status; list the requirements for applying for certification; and indicate the Board's authority to waive a qualification, standard, or training requirement when the Board determines that waiver is in the best interest of the law enforcement profession. This facilitates efficiency in the certification process by ensuring those who seek to be peace officers fully understand the requirements.

R13-4-105. Minimum Qualifications for Appointment: The objective of this rule is to establish limitations on certain peace officer categories, circumstances for changing from one peace officer category to another, the difference between inactive and lapsed status, and standards for reinstatement from inactive status. This facilitates efficiency in the certification process by ensuring those who seek to be peace officers fully understand minimum qualifications for appointment.

R13-4-107. Medical Requirements: The objective of this rule is to establish the medical standards required for certification as a peace officer and the procedure for determining whether reasonable accommodation can be made to allow an individual who does not meet the medical standards to be certified. This facilitates efficiency in the certification process by ensuring those who seek to be peace officers fully understand minimum medical requirements for certification.

R13-4-110. Basic Training Requirements: The objective of this rule is to specify the training required for an individual to obtain certified status as a peace officer, exceptions to the required training, and a procedure for obtaining a waiver of the required training. This facilitates efficiency in the certification process by ensuring those who seek to be peace officers fully understand the training expectations for certification.

R13-4-111. Certification Retention Requirements: The objective of this rule is to specify the continuing, proficiency, and firearms training required for an individual to maintain certified status as a peace officer and to establish standards for and identify approved providers of continuing, proficiency, and firearms training courses. This facilitates efficiency in the certification process by ensuring those who are certified as peace officers fully understand the training requirements for maintaining certification.

3. Effectiveness of the rule in achieving the objective including a summary of any available data supporting the conclusion: The Board determined the rules are generally effective in achieving their objectives. This conclusion is based on the ability of law enforcement agencies to appoint qualified individuals and training academies to train peace officers. However, the Board believes R13-4-103(E) needs to be amended to address individuals who attend an academy without an appointment and R13-4-110 would be more effective if it included a time limit within which an applicant must complete the waiver process.
4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency: The Board determined the rules are generally consistent with its statutes and other rules. However, R13-4-103(B) needs to clarify that it is only elected sheriffs who are exempt from being certified.

No federal law is directly applicable to the subject of these rules. There are many federal laws that apply to law enforcement agencies and the work done by peace officers. These include general laws such as OSHA, EEOC, and ADA, federal laws regarding crimes, and federal case law regarding law enforcement. The training provided to peace officers is consistent with federal law.

5. Agency enforcement policy including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement:

The Board enforces the rules without difficulty.

6. Clarity, conciseness, and understandability of the rule:

The Board determined the rules are clear, concise, and understandable. However, the heading to R13-4-105 is misleading because it references only appointment but the minimum qualifications apply also to an individual who attends an academy without appointment.

7. Summary of written criticisms of the rule received by the agency with the past five years, including letters, memoranda, reports, written analyses submitted to the agency questioning whether the rule is based on valid scientific or reliable principles or methods, and, written allegations made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute or beyond the authority of the agency to enact, and the result of the litigation of administrative proceedings:

The Board did not receive written criticisms of these rules during the past five years.

8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule:

2002 Rulemaking

R13-4-103 and R13-4-107 were last amended in 2002. The EIS prepared at the time of rulemaking was available. The amendments to R13-4-103 included clarifying that constables are not exempt from the certification requirement, renamed the peace officer categories, established that an application is required for appointment, and provided a procedure for obtaining a waiver of provisions. The Board believes it correctly estimated the economic impact of these changes would be minimal. The amendments to R13-4-107 updated the medical requirements for being a peace officer to comply with the Americans with Disabilities Act and simplified the procedure for a Board-trained physician to review a

diagnosis by a non-Board-trained physician. The Board believes it correctly estimated the economic impact of these changes would be minimal.

2006 Rulemaking

R13-4-105, R13-4-110, and R13-4-111 were last amended in 2006. The EIS prepared at the time of rulemaking was available. In R13-4-105, the Board established a provision that enables an otherwise disqualified individual to be appointed if the Board determines the disqualification results from a juvenile indiscretion. In R13-4-110, the Board established a requirement that an individual pass a Comprehensive Final Examination (CFE) to complete the full-authority peace officer training course. Amendments to R13-4-111 made the Section more clear, concise, and understandable.

During the last year, the Board received five petitions regarding use of illegal drugs constituting a juvenile indiscretion. Because the standards for finding juvenile indiscretion are defined clearly, few petitions are received. Last year, all five petitions received were granted. This enables the five individuals involved the opportunity to become a peace officer. The Board accurately predicted it would incur cost to administer and score the CFE. The Board believes these costs are offset by being able to target training to students who need additional help to become a well-trained peace officer. During the last year, 97 percent of trainees passed the CFE on the first attempt.

9. Any analysis submitted to the agency by another person regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states:

No analysis has been submitted.

10. How the agency completed the course of action indicated in the agency's previous 5YRR:

In the five-year-review report approved by Council on June 7, 2011, the Board indicated it would amend R13-4-105 and R13-4-110. As indicated previously, the Board completed the rulemaking and it was approved by Council on February 2, 2016. This five-year-review

report is being prepared simply because the amended rules will not be in effect, under A.R.S. § 41-1823(A), until August 8, 2016. The rules reviewed will cease to exist on that date.

11. A determination after analysis that the probable benefits of the rule outweigh within this state the probable costs of the rule and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective:

Because peace officers are in positions of public trust and charged with enforcing the laws of the state, it is important they be qualified and well trained. There are substantial costs involved with ensuring that a peace officer is qualified and well trained. The Board has determined that the costs resulting from its rules impose the least burden and costs possible consistent with achieving the goal of having qualified and well trained peace officers.

Some of the costs involved with ensuring that a peace officer is qualified and well trained result from the requirements that an applicant undergo a background investigation, be physically and mentally able to perform the functions of a peace officer, receive comprehensive training that meets specified minimum standards, and pass a comprehensive final examination. After being certified, the peace officer is required to participate in continuing and proficiency training.

12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law:

No federal law is directly applicable to the subject matter of the rules.

13. For a rule made after July 29, 2010, that require issuance of a regulatory permit, license, or agency authorization, whether the rule complies with A.R.S. § 41-1037:

None of the rules was made after July 29, 2010.

14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule or to make a new rule. If no

issues are identified for a rule in the report, the agency may indicate that no action is necessary for the rule:

The rules reviewed were substantially amended in a rulemaking approved by Council on February 2, 2016. No additional action is needed or planned.