

2018 South Carolina Code of Laws

Title 23 - Law Enforcement and Public Safety

CHAPTER 23 - LAW ENFORCEMENT TRAINING COUNCIL AND CRIMINAL JUSTICE ACADEMY

Section 23-23-150. Adjudication of allegations of misconduct.

Universal Citation: SC Code § 23-23-150 (2018)

(A) For purposes of this section:

(1) "Academy" means the South Carolina Criminal Justice Academy.

(2) "Council" means the Law Enforcement Training Council.

(3) "Misconduct" means:

(a) a conviction, plea of guilty, plea of no contest or admission of guilt to a felony, a crime punishable by a sentence of more than one year, regardless of the sentence actually imposed, or a crime of moral turpitude, any of which were committed in this State or any other jurisdiction;

(b) the unlawful use of a controlled substance;

(c) the repeated use of excessive force in dealing with the public or prisoners;

(d) dangerous or unsafe practices involving firearms, weapons, or vehicles which indicate either a wilful or wanton disregard for the safety of persons or property;

(e) the physical or psychological abuse of members of the public or prisoners;

(f) the misrepresentation of employment-related information;

(g) wilfully making false, misleading, incomplete, deceitful, or incorrect statements to a law enforcement officer, a law enforcement agency, or a representative of the agency, except when required by departmental policy or by the laws of this State;

(h) wilfully making false, misleading, incomplete, deceitful, or incorrect statements to any court of competent jurisdiction, or their staff members, whether under oath or not;

(i) wilfully providing false, misleading, incomplete, deceitful, or incorrect information on a document, record, report, or form, except when required by departmental policy or by the laws of this State;

(j) the falsification of any application for certification and training based upon which the officer was admitted for training; or

(k) providing false information to the Criminal Justice Academy.

(B) The sheriff or the chief executive officer of a law enforcement agency or department within the State must report to the academy the occurrence of any act or multiple acts of misconduct by a law enforcement officer. ~~which could result in the withdrawal of the certification of the law enforcement officer who is currently or was last employed by his agency.~~ The report shall be made within fifteen days of the final agency or department action resulting from the internal investigation conducted by the agency or department, and shall be on a form prescribed by the council. A wilful failure to report all information related to acts of misconduct shall ~~subject the violator to a civil penalty as provided by the council.~~ itself be considered an act of misconduct and a class C misdemeanor. All misconduct as defined in Section (A)(3) shall be reported whether or not it is severe enough to result in the withdrawal of the certification of the law enforcement agency.

(C) A person against whom an allegation of misconduct has been received by the academy shall be notified of the allegation of misconduct and his right to a contested case hearing, either by delivering a copy of the allegation personally or by leaving a copy of the allegation at his dwelling house or usual place of abode with some person of suitable age and discretion residing therein.

(D) A person against whom an allegation of misconduct has been received by the academy may request a contested case hearing. The request must be made within ~~three~~ one years after receipt of the allegation of misconduct and the service of the allegation on the officer, whichever is later. A person who fails to request a contested case hearing within the time allowed shall be deemed to have waived his right to a contested case hearing. The Law Enforcement Training Council shall proceed to enter a finding of misconduct and then render a final agency decision to deny the person his law enforcement certification or telecommunications certification for a specified time period, up to a permanent denial. Hearings must be scheduled and conducted expeditiously and efficiently, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record. The academy shall schedule a contested case hearing within sixty days of receiving a request for a hearing, however, a continuance may be granted for cause.

(E) The parties must be sent, via certified mail, or electronically if requested, a copy of the hearing officer's recommendation to the full Law Enforcement Training Council. Either party who opposes the recommendation may file a motion in opposition of the hearing officer's recommendation but must do so within fifteen working days of receipt. Another party may file a response to the motion in opposition but must do so within ten working days of the receipt of the motion in opposition. These motions shall be submitted to the full Law Enforcement Training Council, along with the recommendation, hearing transcript, and exhibits. The council may schedule oral arguments for the next quarterly scheduled meeting. After reviewing the motions, recommendation, hearing transcript, and exhibits, the council may vote and issue a final agency decision at any time other than at a quarterly or special meeting.

(F) The council must not accept an allegation of law enforcement certification misconduct in an original personnel change in status form, amended form, or any other form more than ~~thirty~~ one hundred eighty days after the officer's separation from an agency, unless extenuating circumstances exist, as determined by the council.

(G) No person who has a pending allegation of misconduct filed against him pursuant to subsection (B) by a law enforcement agency with the Criminal Justice Academy may be employed as a law enforcement officer or as a telecommunications operator; have the authority of a law enforcement officer; perform any duties of a law enforcement officer, including those duties involving the control and direction of members of the public, detainees, or prisoners; or exercise the power of arrest until:

(1) the council has issued a final agency decision that the person may be granted certification, be granted certification with probation, be granted certification with any additional requirements deemed just and proper by the council, or be granted certification with a public reprimand; or

(2) an appellate court issues a ruling that the Law Enforcement Training Council shall issue the person his law enforcement certification or telecommunications certification and the Law Enforcement Training Council or Criminal Justice Academy has not appealed the ruling.

(H) A law enforcement candidate, law enforcement officer, or telecommunications operator must keep the academy informed of his current address and must notify the academy of any change of address within thirty days.

(I) All information submitted by a law enforcement agency or department to the Criminal Justice Academy related to the separation of a law enforcement officer must be submitted by a certified law enforcement officer from the agency or department.

(J) In addition to other actions outlined in regulations promulgated by the Law Enforcement Training Council, wilful submission of false, misleading, incomplete, deceitful, or incorrect statements to the Criminal Justice Academy, or its representatives, constitutes law enforcement certification misconduct and must be addressed as other allegations of misconduct are addressed by the council.

(K) For any allegation of misconduct of a law enforcement officer pursuant to this section, SLED, the appropriate investigating agency, or the internal affairs division of the agency must complete their investigation within ninety days from the date of the request for a hearing by the officer unless they seek leave from the hearing officer to extend for a specified time period.

(L) In addition to the allegations of misconduct specified in this section, any finding by a law enforcement agency as to the use of excessive force by a law enforcement officer must be reported to the academy by the appropriate law enforcement agency or department within thirty days of the finding, the information of which must be maintained by the academy for investigative and personnel hiring purposes. ~~This information is not a public document and not subject to disclosure other than to a law enforcement or prosecution agency, or attorneys representing a law enforcement or prosecution agency, except by court order. This exemption does not preclude the disclosure of any information contained in these records from another source or by another provision of law.~~ To enhance public confidence in law enforcement this information is subject to disclosure to the public including but not limited to being discoverable in criminal and civil cases as well as being subject to Freedom of Information Act requests.

(M) If an officer with an allegation of misconduct is found not guilty or not at-fault, the records of the misconduct allegation must be expunged by the council within thirty days. Nevertheless the sheriff or chief law enforcement officer who filed the report in compliance with the reporting requirements of subsection (B) has immunity from civil liability for fulfilling the duty to report.

HISTORY: 2018 Act No. 215 (H.4479), Section 2, eff May 18, 2018.