Agency Name: South Carolina Criminal Justice Academy

Statutory Authority: 23-23-10 et seq.

Document Number: 5126

Proposed in State Register Volume and Issue: 46/9

House Committee: Regulations and Administrative Procedures Committee

Senate Committee: Judiciary Committee

120 Day Review Expiration Date for Automatic Approval: 05/10/2023

Final in State Register Volume and Issue: 47/5

Status: Final

Subject: Final Agency Decisions

History: 5126

By Date Action Description Jt. Res. No. Expiration Date

- 09/23/2022 Proposed Reg Published in SR

- 01/10/2023 Received President of the Senate & Speaker 05/10/2023

S 01/10/2023 Referred to Committee

H 01/11/2023 Referred to Committee

- 05/10/2023 Approved by: Expiration Date

- 05/26/2023 Effective Date unless otherwise

 provided for in the Regulation

Document No. 5126

**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY**

CHAPTER 37

Statutory Authority: 1976 Code Sections 23‑23‑10 et seq.

37‑107. Final Decision by Law Enforcement Training Council.

**Synopsis:**

S.C. Code Section 23‑23‑80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code Section 23‑23‑10 et seq. The proposed regulation will define misconduct for the denial of certification for misconduct.

Notice of Drafting for the proposed amendments was published in the *State Registe*r on June 24, 2022.

Section‑by‑Section Discussion:

37‑107. This section addresses procedure regarding Final Agency Decisions.

**Instructions:**

Print the regulations as shown. All other items remain unchanged.

**Text:**

37‑107. Final Decision by Law Enforcement Training Council.

 A. All Council members, unless recused, shall be provided with a complete transcript of the contested case hearing, copies of all exhibits accepted into evidence during the contested case hearing, and a copy of the hearing officer’s recommendation.

 B. A quorum of the Council must be present for a final agency decision to be made. A simple majority vote of the quorum of Council members present shall be binding for a final decision issued pursuant to R.37‑107(D).

 C. In order for a candidate/officer/operator to have a final decision issued finding that they did commit misconduct pursuant to R.37‑025, R.37‑026, R.37‑073, or R.37‑074, the Council must find misconduct has been proven by the preponderance of the evidence.

 D. The Council shall issue a final decision based on the evidence accepted during the contested case hearing and the applicable statutes and regulations. The Council may consider the hearing officer’s recommendation. The Council’s final decision must include the following:

 1. Findings of Fact;

 2. Conclusions of Law; and

 3. If appropriate, sanction(s) pursuant to R.37‑108.

 The Council may adopt the hearing officer’s recommendation as the Council’s final decision.

 E. The Council may refer the matter back to the hearing officer for further proceedings or may order further evidentiary proceedings before the Council.

 F. A copy of the Council’s final decision shall be provided to the candidate/officer/operator and the Agency making the allegation of misconduct, sent by certified mail to the candidate/officer/operator’s address currently on file at the Academy or to the candidate/officer/operator’s counsel and sent by certified mail to the Agency’s address currently on file at the Academy or to the Agency’s counsel, return receipt requested, as soon as practicable after the final decision has been issued. The candidate/officer/operator shall be informed of his/her right to appeal the Council’s final decision pursuant to Sections 1‑23‑380(B) and 1‑23‑600(D) of the South Carolina Code of Laws. It is the responsibility of every candidate/officer/operator and Agency as described in Chapter 37 of these regulations to notify the Academy of his, her, or its current address. All such notices required to be made to the candidate/officer/operator and Agency as prescribed in Chapter 37 of these regulations is effective upon mailing as required in this section.

 G. Duplicate of such notice shall be sent, in the same manner as prescribed in paragraph (F) above, to the current sheriff or chief executive officer of the employing agency or department of the law enforcement officer.

**Fiscal Impact Statement:**

There will be no fiscal impact from this change.

**Statement of Rationale:**

Revisions to these regulations are necessary to update procedures for Final Agency Decisions