Agency Name: South Carolina Criminal Justice Academy

Statutory Authority: 23-23-10 et seq.

Document Number: 5128

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: Withdrawal of Certification of Law Enforcement Officers

History: 5128

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. 5128

**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY**

CHAPTER 37

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

37‑026. Withdrawal of Certification of Law Enforcement Officers.

**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:

37‑026 . This section defines misconduct for the withdrawal of certification of law enforcement officers.

**Instructions:**

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

**Text:**

37‑026. Withdrawal of Certification of Law Enforcement Officers.

 A. A law enforcement officer, certified pursuant to the provisions of R.37‑005 and R.37‑006, shall have his or her certification as a law enforcement officer withdrawn by the Council upon the occurrence of any one or more of the following events:

 1. The officer is found to have falsified any application for certification and training based upon which the officer was admitted for training.

 2. The officer is found to be ineligible for service as a law enforcement officer because of his or her failure to meet prerequisite qualifications for training and certification, as set by law, even though such ineligibility is not discovered until after the officer’s initial certification.

 3. The officer is convicted of a criminal offense under the law of any jurisdiction which would, by the laws of this State, disqualify the officer from obtainment of certification as provided for in R.37‑005 and R.37‑006.

 4. Evidence satisfactory to the Council that the officer has engaged in misconduct. For purposes of this section, misconduct means:

 a. Conviction, plea of guilty, plea of no contest or admission of guilt (regardless of withheld adjudication) to a felony, a crime punishable by a sentence of more than one year (regardless of the sentence actually imposed, if any), or a crime of moral turpitude;

 b. Unlawful use of a controlled substance;

 c. The repeated use of excessive force in dealing with the public and/or prisoners;

 d. Dangerous and/or unsafe practices involving firearms, weapons, and/or vehicles which indicate either a willful or wanton disregard for the safety of persons or property;

 e. Physical or psychological abuses of members of the public and/or prisoners;

 f. Misrepresentation of employment‑related information;

 g. Violations of criminal law resulting from administrative inquiries;

 h. To willfully make false, misleading, incomplete, deceitful, or incorrect statement(s) to a law enforcement officer, a law enforcement agency, or representative, except when required by departmental policy or by the laws of this State during the course of an investigation;

 i. To willfully make false, misleading, incomplete, deceitful, or incorrect statement(s) to a court of competent jurisdiction, or their staff members, whether under oath or not;

 j. To willfully make 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;

 k. Willfully falsifying material information provided to the Criminal Justice Academy;

 l. The wilful failure to intervene when observing another officer physically abusing a person, whether or not the person is in custody, while in the performance of his official duties, if the officer knew the person’s rights were being violated, the officer had an opportunity to intervene, and the officer chose not to do so;

 m. The wilful and knowing failure to promptly report another officer, while in the performance of his official duties, abusing a person whether or not the person is in custody.

 Provided however that in considering whether to withdraw certification based on misconduct, the Council may consider the seriousness, frequency and any mitigating circumstances surrounding the act or omission constituting or alleged to constitute misconduct.

 B. The officer’s certification expires due to the officer’s failure to meet re‑certification requirements as set out in R.37‑010.

**Fiscal Impact Statement:**

There will be no fiscal impact from this change.

**Statement of Rationale:**

Revisions to these regulations are necessary to make the definitions of misconduct for withdrawal of certification for misconduct.