

Regulatory Analysis Form

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(1) Agency

Pennsylvania Commission on Crime & Delinquency,
Constables' Education and Training Board

2001 MAR -3 PM 2:04

REVIEW COMMITTEE

(2) I.D. Number (Governor's Office Use)

35-26

IRRC Number: 2143

(3) Short Title

Constables' Education and Training Board

(4) PA Code Cite

37 Pa. Code Chapter 431

(5) Agency Contacts & Telephone Numbers

Primary Contact: Stephen Spangenberg
705-3693 Ext. 3040

Secondary Contact: Gerard M. Mackarevich, Chief Counsel
705-0888 Ext. 3034

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The regulation will set forth the procedures used by the Constables' Education and Training Board in administering programs for the training of constables and deputy constables. The regulation will establish the content of the basic training program for new officers and continuing education for experienced officers, which applicable law requires the officers to successfully complete to hold certification by the board. Current certification is required by law for a constable or deputy constable to perform judicial duties. The regulation also will establish standards for the Board's qualification of constables and deputy constables to carry and use fire arms in the course of their duties. The regulation also will establish standards for the schools approved by the board to administer the training

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The regulation is authorized by section 1 of the Act of June 15, 1994 (p.l. 265, no. 44) which is set forth at 42 Pa. C.S.A. § 2941 et seq

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Yes. See number 9 above.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Prior to the enactment in 1994 of the legislation referenced in No. 9 and 10 above, no training was required of constables or deputy constables performing judicial duties within the Commonwealth. The training implemented by this regulation will enhance the professionalism of the approximately 1,800 constables and deputy constables actively performing judicial duties within the Commonwealth.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

The public would have some safety risk if constables and deputy constables are serving civil and criminal papers and performing other judicial duties while carrying firearms without proper training.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

More intensive training for the constables who perform legal duties will increase competence levels of the constable cadre and generate customer service benefits for the litigants and witnesses in legal matters, and for the public generally. The Administrative Office of State Courts reports that, in calendar 1999, the most recent year for which statistics are compiled, the following procedures or judicial events took place: non-traffic arrest warrants served, 51,452; traffic warrants served, 195,955; civil actions disposed, 131,272, including 16,543 executions; landlord-tenant matters disposed, 62,393, including 25,644 possessions; Protection from Abuse Orders, 6,357 new cases opened. Although constables or deputy constables were by no means involved in all of these events, it is reasonable to assume that they participated in a significant subset of them. Consequently, enhanced training will provide for better performance.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

None are anticipated

Regulatory Analysis Form

(15) List the persons, groups or entities that will be required to comply with the regulation.
(Approximate the number of people who will be required to comply.)

According to Board records, a total of 1,523 constables and deputy constables held current Board certification as of May 21, 2001. It has been the Board's experience that substantial numbers of new constables and deputy constables seek initial Board certification each year. The Board historically has allowed only a fraction of the new hires a basic training waiver, based on their prior training and experience. Consequently, the majority of the new hires will be required to successfully complete the 80-hour course. Moreover, currently certified constables and deputy constables will require annual continuing education.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

In initially designing the training program, PCCD staff on behalf of the Board conducted extensive public outreach to those likely to be affected by the regulation. Among other things, the staff in early 1996 conducted a series of six meetings throughout the state. One meeting each was held in the South Central, Southeast, Southwest, Northeast, Northwest and North Central regions. Approximately two weeks before each meeting, staff mailed a letter to each constable in that region, inviting them to register for the meeting to provide input. At each site, staff conducted two three-hour sessions, limited to 30 constables each. Also in attendance were district justices and municipal officials. At the sessions, constables and deputy constables completed job task inventory surveys designed to develop a cross-section of the frequency of judicial duties performed. Input also was provided as to preferences relating to scheduling of training and waiver examinations. After collecting this input, PCCD staff and the Board designed a curriculum that in their view maximized basic training, continuing education and firearms qualification courses mandated by the Act.

Subsequent to the initial development of the programs, the Board has communicated extensively with its regulated community. Constables' Training Bulletins are disseminated periodically to update constables, deputy constables, municipal officials, district justices and other court officials on any operational or curriculum changes. The Board conducts quarterly public meetings, and it has been its recent custom to hold two meetings a year in a location removed from Harrisburg. For example, the meeting of September 1999 was held in Montgomery County, and the Board conducted its September 2000 meeting in Scranton, and its March 2001 meeting in Meadville. At all public Board meetings, time is provided on the agenda for audience participation.

It should be noted that the composition of the seven-person Board as mandated by the Act promotes effective development of public input and advocacy. Specifically, three members of the Board are required to be constables, one a district justice, one a court administrator and one a county commissioner. Each of these members is appointed by the Governor with consent of a majority of the Senate. The seventh member is the Pennsylvania State Police Commissioner or designee.

Regulatory Analysis Form

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The regulation will not increase costs to the constables and deputy constables taking the training. The Commission is required by 42 Pa. C.S.A. § 2949 to pay for all tuition and other expenses for the training, which itself is required by statute. It is anticipated that those taking the training will experience a loss of income as a result of classroom participation, but, given the variety of scenarios and variations in compensation, such costs cannot be quantified.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

None are anticipated.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

A special restricted receipts account within the General Fund known as the Constable Education and Training Account was established by 42 Pa C.S.A. § 2949, funded through surcharges collected at the county level relating to initiation of civil matters or service of process. Such surcharges resulted in the collection of \$1,883,509.48 during the year ending June 30, 2001. The total cost of training incurred by the Board in fiscal 2000-2001 was \$1,371,099.56. Consequently, revenues exceeded expenditures by \$512,409.92 in fiscal 2000-2001. In the current fiscal year, expenditures are projected at \$1,606,590, and revenues at \$1,977,685. The Constable Education and Training Account held a balance of \$7,345,848 as of June 30, 2001.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-
COSTS:						
Regulated Community	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-
Local Government	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-
State Government	\$1,606,590	\$1,966,632	\$1,966,632	\$2,066,632	\$2,166,632	\$2,266,632
Total Costs	\$1,606,590	\$1,966,632	\$1,966,632	\$2,066,632	\$2,166,632	\$2,266,632
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-	\$-0-

(20a) Explain how the cost estimates listed above were derived.

The above estimates are projections provided by PCCD based on historical experience.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Constables Education and Training	\$1,296,620	\$1,434,848	\$1,371,099	Estimated: \$1,606,590

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The increased competence levels of the Commonwealth's constable cadre outweigh the effects of added costs, which themselves are sufficiently absorbed by the revenues generated by surcharges.

(22) Describe the non-regulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

None considered.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

None Considered.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

N/A

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

It compares favorably. The constable training will not put Pennsylvania at a competitive disadvantage with other states

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No further public input meetings are scheduled, given the extensive input already generated as described in Paragraph 16 above. However, the Board and PCCD will be open to accepting input from the field, including at the Board's and Commission's quarterly meetings.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

None.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

N/A

Regulatory Analysis Form

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

Effective immediately.

(31) Provide the schedule for continual review of the regulation.

Annually

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

201103-03 01 01

#2143

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

BY: _____
(DEPUTY ATTORNEY GENERAL)

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania Commission on Crime & Delinquency, Constables' Education and Training Board
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 35-26

DATE OF ADOPTION: _____

BY: James Thomas

TITLE: Executive Director
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

John L. Guida

7/19/01
DATE OF APPROVAL

(Deputy General Counsel)
(~~Chief Counsel, Independent Agency~~)
(Strike inapplicable title)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

TITLE 37 – LAW

CONSTABLES' EDUCATION AND TRAINING BOARD

[37 PA. CODE CH. 431]

The Constables' Education and Training Board (Board), an advisory board within the Pennsylvania Commission on Crime and Delinquency (Commission), by this order enacts chapter 431 of Title 37 as set forth in Annex A.

This final form rulemaking was adopted by the Board at its meeting on May 21, 2001. The Commission reviewed it and approved it at its meeting on June 12, 2001.

A. Effective Date

The amendments will be effective upon publication in the *Pennsylvania Bulletin*.

B. Statutory Authority

The rulemaking is authorized under authority of section 1 of the act of June 15, 1994 (P.L. 265, No. 44) (42 Pa.C.S. § 2941-2950) (act).

C. Background and Purpose

In this regulation, the Board establishes basic training and continuing education programs required by the act for constables and deputy constables to successfully complete to attain or retain Board certification, which is a prerequisite for them to be paid for the duties that they perform. This regulation also sets standards for those constables and deputy constables who seek Board qualification to carry and use a firearm while conducting their occupation.

The Board, created in 1994 as an advisory board to the Commission, initiated its training programs in 1997. As of May 21, 2001, approximately 1,523 constables and deputy constables held current certification in Pennsylvania.

Constables and deputy constables are independent contractors who are engaged as needed, primarily by the district justices of this Commonwealth. They perform a variety of duties, including serving complaints, summonses, subpoenas and other legal documents in civil matters, levying on goods and performing other duties relating to execution proceedings, providing courtroom security, and transporting prisoners, executing arrest warrants and performing other duties in criminal proceedings.

D. Summary of Comments and Responses on Proposed Rulemaking

Notice of proposed rulemaking was published at 30 Pa.B. 5961 (November 18, 2000). Publication was followed by a 30-day public comment period during which the Board received no public comments. Neither the House nor the Senate Judiciary Committee provided comment. The Board received comments from the Independent Regulatory Review Commission (IRRC), which the Board duly considered in making revisions to the rulemaking. Responses to IRRC's comments are set forth below, along with descriptions of some changes being made by the Board on its own.

§ 431.2. Definitions.

IRRC suggested the deletion of introductory language in the definition section. IRRC also suggested that the definition of "waiver" be amended to shorten it and eliminate substantive provisions. Both suggestions have been adopted in the final regulation.

§ 431.11. Registration.

IRRC had two comments in this section, both pertaining to the information requested by the Board when a person registers for certification. IRRC indicated that there was a lack of clarity, and suggested that examples of information to be provided should be listed, and reference should be to a registration form if one exists. The Board has implemented both suggestions. The Board on its own has split the section into subsections (a) and (b).

§431.14. Lapse of certification.

No comments were made pertaining to this section. However, in addressing comments that IRRC made with respect to §431.15(e) below, the Board now believes that this section on lapse of certification for failure to complete continuing education requirements should contain a three-tiered approach to restoration of lapsed certification similar to that set up in §431.15(e) with respect to reactivation of certification numbers following return to elective or appointed office.

§ 431.15(d) and (e). Certification numbers.

IRRC had several comments regarding these two subsections. The Board in response to those comments has reworked language and substantially revamped the subsections, especially (e). The section deals with the Board's administrative procedures in issuing, deactivating and reactivating certification numbers of constables and deputy constables. Subsection (d) requires the constable or deputy constable to notify the Board when elective or appointed office is vacated, so that the Board may deactivate the applicable certification number of its database. IRRC commented that the Board's proposed requirement for such notification to be accomplished "immediately" was vague, and should be replaced with a specific timeframe. This suggestion has been implemented in the final regulation. The Board upon further study finds that some of the time references are unnecessary. The Board on its own also sets forth specific modes of notification. The subsection now provides for

notification by telephone, facsimile transmission or electronic mail within 48 hours after the vacating action.

Similarly, in subsection (e), the Board now will require a constable or deputy constable who is re-elected or re-appointed to the office that he or she once held to notify the Board by one of the same modes now listed in subsection (d), or by U.S. mail. However, the Board sees no need to require such notification within a particular timeframe, as had been suggested by IRRC. The fact that a constable or deputy constable may not be compensated for performing statutory duties unless and until his or her certification is activated on the Board's database provides a powerful incentive for timely reporting and militates against the need to set forth a deadline. Hence, the word "immediately" has been deleted, with no substitute language being provided.

Primarily in response to IRRC's comments, the Board is rewording the material in (e)(1), (2) and (3). The Board set up a three-tiered hierarchy of scenarios to deal with restoration of certification to persons who return to elective or appointed office after a hiatus. The three categories are based on the duration of the hiatus, ranging from a hiatus of a few months to one of 5 years or more. It was the intent of the Board to require those who had been away from the job for an extended period to successfully complete suitable training prior to obtaining reactivation. Those with less than 5 years of inactivity would need to attend continuing education, unless they were seeking to return to service in the same calendar year as they left office. Those with 5 years or more of inactivity would need to attend basic training again. The new wording makes this intent clear. In response to IRRC's comments, the Board makes the timeframe more specific, by ending the applicable time period at the point when the constable or deputy constable notifies the Board that he or she has been reelected or reappointed.

The Board deletes the phrase "as soon as practicable" in §431.15(e)(1), which states that the Board will re-activate the original certification number if reelection or reappointment occurs within the same calendar year as the constable or deputy constable vacated the office. IRRC had suggested that the term be replaced with a more specific timeframe, but upon further reflection the Board believes that a time reference is unnecessary.

In addition, at IRRC's suggestion, the word "course" was added at the end of (2), and a typographical error in (3) was corrected, changing the phrase "not less than 5 years" to "5 years or more."

§ 431.21(a) and (b). Curriculum.

At IRRC's suggestion, the Board is adding language to make clear that one of the basic training topics listed includes statutorily-mandated instruction in the interpretation and application of the fees provided for in the act.

IRRC questioned the Board proposal that would allow topics to be added to or deleted from the curriculum or modified by simply publishing a notice and without having to go through the rulemaking process. The Board agrees to delete the applicable subsection.

§ 431.22. Successful completion.

The Board adopts IRRC's suggestion to set forth the actual number of hours of basic training currently required by the act: 80 hours.

IRRC had three comments regarding subsection (a)(3). The Board concurs with two of them. First, it adds language to clarify that the Board will require basic training participants to undergo proficiency examinations in practical skills. Second, it sets forth examples of the practical skills to be tested. The Board declines to implement IRRC's suggestion to set forth specific criteria by which candidates are to be judged as proficient in practical skills. The proficiency examinations by their nature are "hands-on" and defy precise quantification of achievement. The Board chooses to use language that allows for the subjective impressions of the instructor administering the proficiency examination. However, the Board has deleted the phrase "demonstrate to the Board's satisfaction," which suggests a higher level of precision in proficiency testing than may actually exist.

§ 431.24(a). Waiver examination.

Minor language changes suggested by IRRC are adopted.

§ 431.31. Curriculum.

IRRC suggested that the word "periodically" is vague as a measure of how frequently the Board may adjust the continuing education curriculum. Because such adjustment may occur "annually," the Board concurs in the use of that term.

IRRC also had concerns about how a constable or deputy constable will receive notice of a curriculum change, and how the Board reconciles a changing curriculum with courses already completed by the time of the changeover. The Board believes that such concerns are misplaced, for the following reason. Unlike continuing education in many other professions, where the regulated party chooses which courses to take from the offerings of various independent training providers, the Board provides one standard program every year to all constables and deputy constables. Hence, there is no danger that a constable or deputy constable will take the "wrong" course or not be informed of what are the correct courses.

§ 431.32(a)(1). Successful completion.

IRRC comments that the Board regulation on the criteria for successful completion of continuing education should include a specific reference to the number of hours of training as required by the act. However, unlike the firm number of hours required by the act with respect to basic training (80 hours), the act sets a ceiling of "no more than 40 hours per year" with respect to continuing education. Because of the evolving need for training in various

topics that cannot be foreseen very far in advance, the Board sees a need to maintain flexibility as to number of total hours of continuing education from year to year. Consequently, the Board declines to adopt the suggestion to specify the number of hours of continuing education. However, the Board has added language in the final regulation by which it will give prior notice of adjustments to hours by disseminating such information in a bulletin to the regulated community.

§ 431.43. Firearm and ammunition.

IRRC had several comments on this section. The Board is adopting the suggestion that it make clear that a constable or deputy constable seeking to attend a firearm qualification course must as a prerequisite provide a personal weapon and enumerated equipment.

The Board declines to adopt IRRC's suggestion that the Board might add a mechanism allowing an attendee to obtain from the Board a predetermination that the weapon and ammunition chosen are acceptable to the Board. The Board is wary of potential liability if it were to specify which weapons and ammunition are acceptable or not acceptable. Instead, the Board enumerates a list of acceptable calibers, which it believes will provide sufficient guidance to any attendee who is unclear what kind of weapon would be "generally acceptable for law enforcement usage." With respect to ancillary equipment, the Board adds the descriptive phrase "specific to the weapon," which it believes will provide sufficient guidance to the attendee.

§ 431.51. Board approval of school.

The Board incorporated IRRC's suggestion to substitute the word "will" for "may" in discussing the Board's process for selecting and approving schools to conduct the training programs. The Board agrees that, because it is required pursuant to § 2944(a) of the act to establish, implement and administer training programs, the word "will" is appropriate.

E. Compliance with Executive Order 1996-1.

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. The final-form regulation addresses a compelling public interest as described in this Preamble and otherwise complies with Executive Order 1996-1.

F. Fiscal Impact and Paperwork Requirements

The rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The Board pays for the training entirely out of surcharges

collected at the county level relating to initiation of civil matters or service of process. The rulemaking will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

G. Sunset Date

The Board will continually monitor the effectiveness of its regulations through communications with the regulated population. Therefore, no sunset date has been set.

H. Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a)), the Board submitted a copy of the notice of proposed rulemaking, published at 30 Pa.B. 5961, to IRRC and the Chairpersons of the House and Senate Judiciary Committees.

In compliance with section 5(c) of the Regulatory Review Act, the Board also provided IRRC and the Committees with copies of the comments received. In preparing these final-form regulations, the Board has considered the comments received from IRRC. No comments were received from the public or from the Committees.

These final-form regulations were approved by the House Judiciary Committee on _____, 2001, and approved by the Senate Judiciary Committee on _____, 2001. IRRC met on _____ 2001 and approved the regulation in accordance with section 5.1(e) of the Regulatory Review Act.

I. Contact Person

Further information may be obtained by contacting Steve Spangenberg, Manager, PCCD Civil and Criminal Training Division at PO Box 1167, Harrisburg, PA 17108-1167, (717) 705-3693 X 3040.

J. Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated thereunder in 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) This promulgation does not enlarge the purpose of the proposed rulemaking published at 30 Pa.B. 5961.

(4) This amendment is necessary and appropriate for administration and enforcement of the Board's authorizing statute.

K. Order

The Board, acting under its authorizing statute, orders that:

(1) The regulations of the Board, 37 Pa. Code Chapter 431, are enacted to read as set forth in Annex A.

(2) The Board will submit this order and Annex A to the Office of General Counsel and to the Office of the Attorney General as required by law.

(3) The Board will certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(4) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

Honorable James E. Russo
Chair
Constables' Education and Training Board

Fiscal Note:

Annex A

TITLE 37. LAW

PART VI. COMMISSION ON CRIME AND DELINQUENCY

CHAPTER 431. CONSTABLES' EDUCATION AND TRAINING BOARD

GENERAL PROVISIONS

§431.1. Purpose.

This chapter sets forth standards and procedures relating to the certification of constables and deputy constables and their qualification to carry or use firearms in the performance of their duties.

§431.2. Definitions.

~~The following words and phrases, when used in this chapter, have the meanings as indicated:~~

Act—42 Pa.C.S. §§ 2941—2950 (relating to constables).

Basic training – A course of training administered by the Constables' Education and Training Board that, when completed successfully, entitles a new constable or one who has been out of office for not less than 5 years to perform judicial duties and be compensated under the act.

Board – The Constables' Education and Training Board of the Commission.

Certification – The Board's official determination that a constable or deputy constable has completed successfully the training required by the act to perform judicial duties and be compensated.

Commission—The Commission on Crime and Delinquency.

Constable - A person currently serving as constable or deputy constable.

Continuing education – A course of annual training administered by the Board that, when completed successfully, entitles a constable to continue to perform judicial duties and be compensated under the act.

Firearms qualification – The Board’s official determination pursuant to the act that a constable is qualified to carry or use firearms in the performance of duties.

School – A facility approved by the Board that enters a contract with the Commission to conduct training.

Waiver – The Board’s grant of permission to a constable to reduce the hours of classroom attendance in a Board training course. ~~based on the Board’s determination that, because of prior training and experience, the constable has acquired knowledge or skill equivalent to that provided by the Board’s training.~~

CERTIFICATION

§ 431.11. Registration.

(a) To be considered by the Board for certification, a person shall register with the Board by submitting all information requested by the Board IN A FORM PROVIDED BY THE BOARD. REQUIRED INFORMATION SHALL INCLUDE MAILING ADDRESS AND TELEPHONE NUMBER, SOCIAL SECURITY NUMBER, DATE OF BIRTH AND OFFICE HELD OR SOUGHT. A CONSTABLE SHALL SET FORTH THE BEGINNING DATE AND EXPIRATION DATE OF THE TERM OF OFFICE THAT APPLIES, AND SHALL PROVIDE DOCUMENTARY EVIDENCE OF ELECTION OR APPOINTMENT.

(b) A registrant shall inform the Board of a change to REGISTRATION information previously provided within 15 days of the change.

§ 431.12. Initial certification.

The Board will issue a certification to a constable who successfully completes basic training or attains a passing grade on the Board’s basic training waiver examination.

§ 431.13 Annual recertification.

(a) If a constable successfully completes continuing education, the Board will recertify the constable for the next calendar year.

(b) In order to maintain continuous certification, a constable shall complete continuing education during the calendar year following the year in which the constable completed one of the following:

(1) Basic training.

- (2) The basic training waiver examination.
- (3) A previous course of continuing education.

§ 431.14. Lapse of certification.

(a) The certification of a constable who fails to complete continuing education successfully within the time allowed in § 431.13(b) (relating to annual recertification) shall lapse and be listed by the Board as inactive. Upon successful completion of A continuing education COURSE ~~by a constable~~ WITHIN THE TIME ALLOWED IN §431.13(b), the Board will re-activate the lapsed certification.

(b) IF A CONSTABLE WITH A LAPSED CERTIFICATION SUCCESSFULLY COMPLETES CONTINUING EDUCATION AFTER THE EXPIRATION OF THE TIME ALLOWED IN §431.13(b), BUT LESS THAN 5 YEARS AFTER SUCH TIME HAS EXPIRED, THE BOARD WILL REACTIVATE THE CERTIFICATION AS OF THE FOLLOWING CALENDAR YEAR. THE BOARD IN ITS DISCRETION MAY REACTIVATE THE CERTIFICATION DURING THE SAME CALENDAR YEAR IN WHICH THE CONSTABLE SUCCESSFULLY COMPLETES CONTINUING EDUCATION.

(c) IF 5 YEARS OR MORE ELAPSES AFTER THE LAPSE OF A CONSTABLE'S CERTIFICATION, THE BOARD MAY NOT REACTIVATE THE ORIGINAL CERTIFICATION. THE BOARD WILL ISSUE A NEW CERTIFICATION UPON THE CONSTABLE'S SUCCESSFUL COMPLETION OF BASIC TRAINING.

§ 431.15. Certification numbers.

(a) The Board will issue a unique certification number to a constable whom the Board has certified for the first time.

(b) If a person has not been elected or appointed as constable, but has successfully completed basic training, the Board will issue a certification number upon the individual's election or appointment and the notification to the Board by the constable of such election or appointment.

(c) The Board will reissue the original certification number to a constable who successfully completes continuing education.

(d) If a person has vacated the office of constable or deputy constable, the person is required to notify the Board BY TELEPHONE, FACSIMILE TRANSMISSION OR ELECTRONIC MAIL WITHIN 48 HOURS AFTER THE VACATING ACTION. ~~immediately~~. Upon such notification, the Board will place the applicable certification number into inactive status.

(e) Upon reelection or reappointment to office, the constable shall notify the Board ~~immediately~~ BY TELEPHONE, FACSIMILE TRANSMISSION, ELECTRONIC MAIL OR U. S. MAIL. Based upon the timing of SUCH NOTICE OF reelection or reappointment, the Board will take one of the following steps:

(1) IF THE CONSTABLE NOTIFIES THE BOARD OF THE REELECTION OR REAPPOINTMENT TO THE OFFICE DURING THE SAME CALENDAR ~~occurs within a~~ year IN WHICH THE OFFICE WAS VACATED ~~of the constable's initial certification or most recent recertification~~, the constable's certification number will be reactivated ~~as soon as~~ practicable.

(2) IF THE CONSTABLE NOTIFIES THE BOARD OF the reelection or reappointment ~~occurs~~ a year or more but less than 5 years after THE OFFICE WAS VACATED ~~the constable's initial certification or most recent recertification~~, the Board will reactivate the original certification upon the constable's successful completion of A ~~the next available~~ continuing education COURSE.

(3) IF THE CONSTABLE NOTIFIES THE BOARD OF the re-election or re-appointment ~~occurs not less than~~ 5 years OR MORE after the OFFICE WAS VACATED ~~constable's initial certification or most recent recertification~~, the Board will issue a new certification number upon the constable's successful completion of ~~the next available~~ basic training.

BASIC TRAINING

§ 431.21. Curriculum.

(a) Basic training will consist of instruction in the following topics:

- (1) Role of the constable in the justice system.
- (2) Professional development, INCLUDING INSTRUCTION IN THE INTERPRETATION AND APPLICATION OF THE FEES PROVIDED FOR IN § 2950 OF THE ACT.
- (3) Civil law and process.
- (4) Criminal law and process.
- (5) Use of force.
- (6) Mechanics of arrest.
- (7) Defensive tactics.

(8) Prisoner transport and custody.

(9) Court security.

(10) Crisis intervention.

~~(b) The Board may add, delete or modify one or more topics upon publishing prior notice of the change(s) in the *Pennsylvania Bulletin* and in an edition of the *Constables' Training Bulletin* that is distributed to constables and other interested parties.~~

§ 431.22. Successful completion.

(a) A constable or other person will complete basic training successfully upon meeting all of the following criteria:

(1) Attending ~~all of the~~ 80 hours of basic training AS required by the act.

(2) Attaining a passing score as established by the Board on the written examination for each topic.

~~(3) Demonstrating to the Board's satisfaction proficiency in EACH EXAMINATION OF practical skills SUCH AS DEFENSIVE TACTICS AND MECHANICS OF ARREST.~~

(b) A constable or other person who fails to achieve a passing score on a written examination may undergo a second examination.

(c) A constable or other person who fails to achieve a passing score in a second examination shall attend a second basic training in its entirety and complete it successfully to be issued a certification.

(d) A constable or other person may attend a third basic training upon failing to complete the second course successfully, but shall be given no additional opportunities upon failing to complete the third course successfully.

§ 431.23. Eligibility for waiver.

A constable who fits one of the following categories may apply to the Board for a waiver of the requirement to attend and successfully complete basic training:

(1) Current employment as a municipal police officer or deputy sheriff in this Commonwealth who demonstrates to the satisfaction of the Board that training and certification required to perform the applicable occupation are current.

(2) Employment within the past 2 years as a State Police officer, municipal police officer or deputy sheriff, who demonstrates to the satisfaction of the Board that training and certification

required to perform the applicable occupation were current at the time the constable terminated the employment.

§431.24. Waiver examination.

(a) The Board will issue an initial certification to a constable to whom the Board grants a waiver of basic training and who attains a passing ~~grade~~ score AS ESTABLISHED BY THE BOARD on the Board's basic training waiver examination. ~~as established by the Board.~~

(b) A constable shall have one opportunity only to obtain a passing score on a basic training waiver examination. A constable who fails the basic training waiver examination shall attend the Board's basic training course in full and complete it successfully to obtain an initial certification.

§ 431.25. Attendance policies.

(a) A person who is not a constable but who indicates an intention to seek election or appointment as a constable may register and attend basic training if an opening is available and the person bears financial responsibility for the cost.

(b) A constable or other person who registers for basic training may withdraw from the course without penalty upon timely notification to the director of the school conducting basic training. A notification shall be deemed timely if it is delivered to the director of the school no later than 7 days prior to the start of classes. The school may assess a failing grade for all or part of basic training if the constable or other person fails to provide timely notification and the Board finds that substantial mitigating circumstances do not exist.

CONTINUING EDUCATION

§ 431.31. Curriculum.

The Board may adjust ~~periodically~~ ANNUALLY the content of continuing education as it deems necessary to address new or varied topics or skills required to perform judicial duties set forth in the act.

§ 431.32. Successful completion.

(a) A constable will complete continuing education successfully upon meeting all of the following criteria:

(1) Attending all of the hours of continuing education PER YEAR AS DETERMINED ANNUALLY BY THE BOARD AND PUBLISHED IN A BOARD TRAINING BULLETIN,

~~required by the act~~, except for topics specifically waived by the Board under this chapter.

(2) Attaining a passing score as established by the Board on each written examination taken.

(3) Demonstrating proficiency in each examination of practical skills.

(b) A constable who fails to attain a passing score on any written examination may undergo a second examination for that topic.

(c) A constable who fails to attain a passing score in a second examination shall attend another course in the failed module and complete it successfully to be recertified. The constable shall bear financial responsibility for a second continuing education COURSE.

(d) A constable who fails two successive continuing education courses shall not be afforded an opportunity to attend a third course.

§ 431.33. Eligibility for waiver.

(a) At the beginning of each calendar year, the Board will determine for which specific topics it will entertain waiver requests from constables in that year's continuing education curriculum.

(b) A constable seeking annual recertification who is currently employed as a municipal police officer or deputy sheriff may apply to the Board for a waiver of certain topics in that year's continuing education curriculum if the constable demonstrates that equivalent training and certification required to perform the applicable other occupation are current.

(c) A constable shall apply to the Board for each year's continuing education for which the constable is seeking waiver.

§ 431.34. Scope of waiver.

(a) The Board will grant a waiver of continuing education for those topics that also were covered in the certification training for the other occupation.

(b) A constable who is granted a waiver of continuing education will be recertified despite absence from classroom attendance for those topics specifically waived by the Board, provided that the constable attends and successfully completes all topics in continuing education for which a waiver is not granted.

§ 431.35. Attendance policies.

A constable who registers for continuing education may withdraw without penalty upon

timely notification to the director of the school conducting the continuing education. A notification will be deemed timely if it is delivered to the director of the school no later than 7 days prior to the start of classes. The school may assess a failing grade for the entire course or applicable topic if the constable fails to provide timely notification and the Board finds that substantial mitigating circumstances do not exist.

FIREARMS QUALIFICATION

§ 431.41. Qualification course.

(a) Unless granted a waiver by the Board as set forth in § 431.45 (relating to eligibility for waiver), a constable shall attend and successfully complete a basic firearms qualification course established by the Board to be qualified for the first time by the Board to carry and use a firearm in the performance of duties.

(b) After a constable attains firearms qualification for the first time, the constable shall attend and successfully complete the Board's annual firearms qualification course to maintain firearms qualification, except to the extent the Board grants a waiver as set forth in § 431.45.

§ 431.42. Eligibility for firearms qualification.

A constable holding current Board certification who is not precluded under State or Federal law from possessing or using a firearm is eligible to attend a firearms qualification course.

§ 431.43. Firearm and ammunition.

(a) AS A PREREQUISITE FOR ATTENDING A FIREARMS QUALIFICATION COURSE, a constable shall ~~be responsible for providing~~ PROVIDE AT ALL TIMES DURING THE COURSE a firearm AND ammunition, magazines, speed loaders, safety accessories, AND cleaning equipment SPECIFIC TO THE FIREARM. ~~and other associated equipment as needed during the firearms qualification course.~~ THE BOARD WILL PROVIDE AMMUNITION TO THE CONSTABLE FOR USE DURING INSTRUCTION. THE CONSTABLE SHALL PROVIDE AMMUNITION FOR USE DURING THE QUALIFICATION TEST.

(b) The firearm provided shall be of a design ~~and caliber~~ generally acceptable for law enforcement usage ~~within this Commonwealth~~, and shall be in a condition for safe operation as designed and intended by the firearm manufacturer. THE FIREARM PROVIDED SHALL BE ONE OF THE FOLLOWING CALIBERS:

(1) .380;

(2) .38 SPECIAL;

- (3) .357;
- (4) .40;
- (5) .45;
- (6) 9MM; OR
- (7) 10MM.

(c) The ammunition provided shall be of a type and design generally acceptable for law enforcement usage ~~within this Commonwealth~~, and may not be remanufactured or reloaded.

§ 431.44. Successful completion.

(a) The Board will qualify a constable to carry and use a firearm in the performance of duties who meets the eligibility criteria of § 431.42 (relating to eligibility for firearms qualification) and who meets all of the following criteria:

- (1) Attending all of the hours of training scheduled by the Board, except for topics specifically waived by the Board under this chapter.
 - (2) Attaining a passing score as established by the Board on each written examination.
 - (3) Demonstrating proficiency in each examination of practical skills, using the same firearm and the same or comparable ammunition that the constable will carry in the performance of duties during the upcoming year.
- (b) A constable who fails to attain a passing score on a written examination or course-of-fire may undergo one retest of the applicable written examination or practical skill proficiency examination.
- (c) A constable who fails to attain a passing score in a retest of a written examination or practical skill proficiency examination shall attend a second firearms qualification course in its entirety and complete it successfully to obtain a firearms qualification. The constable shall bear financial responsibility for the second firearms qualification course.
- (d) A constable who fails two successive firearms qualification courses will not be afforded an opportunity to attend a third course.

§ 431.45. Eligibility for waiver.

(a) A constable seeking firearms qualification who is currently employed as a municipal police officer, deputy sheriff or officer of the Game Commission or the Fish and Boat

Commission may apply to the Board for a full or partial waiver of a Board firearms qualification course if the constable demonstrates to the satisfaction of the Board that training and certification required to carry and use a firearm in the applicable other occupation are current.

(b) A constable shall apply to the Board for each separate firearms qualification course for which the constable is seeking waiver.

§ 431.46. Scope of waiver.

(a) The Board will grant a waiver relating to a Board firearms qualification course for those topics that also were covered in the firearms training for the other occupation.

(b) A constable who is granted a waiver relating to a Board firearms qualification course will be qualified by the Board to carry and use firearms despite absence from classroom attendance for those topics specifically waived by the Board, provided that the constable attends and successfully completes all topics in the course for which a waiver is not granted.

§ 431.47. Attendance policies.

A constable who registers for a firearms qualification course may withdraw from the course without penalty upon timely notification to the school conducting the course. A notification will be deemed timely if it is delivered to the director of the school at least 7 days prior to the start of classes. The school may assess a failing grade for all or part of the course if the constable fails to provide timely notice and the Board finds that substantial mitigating circumstances do not exist.

§ 431.48. Lapse of qualification.

A firearms qualification will lapse immediately if a person who held the qualification no longer meets all of the eligibility criteria of § 431.42 (relating to eligibility for firearms qualification), or does not successfully complete a firearms qualification course in the calendar year following the person's most recent successful completion of such a course.

SCHOOLS AND INSTRUCTORS

§ 431.51. Board approval of school.

(a) The Board may WILL select and approve one or more schools to conduct any of the various training programs that it administers under the act.

(b) The Board will select and approve a school or schools to provide training from a list

of candidates solicited by the Commission through a competitive process.

§ 431.52. Scope of approval.

Board approval of a school shall be effective only for the duration of the contract executed between the Commission and the school.

§ 431.53. Board certification of instructors.

The Board will certify instructors for its training programs from one or more persons who shall apply to the Board through a school and submit information as requested. Information shall include a detailed description of the formal training and actual experience in the specific topics for which certification is being sought, and a description of the instructional experience of the applicant.

§ 431.54. Scope and limitations of instructor certification.

A person certified by the Board as an instructor shall use such certification only while teaching Board training in a school. Board certification of an instructor shall be effective only so long as the instructor is actively involved in teaching in a school the topics for which certification was granted.

Commonwealth of Pennsylvania



PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY

Thomas W. Corbett, Jr., Esq.
Chairman

August 3, 2001

James Thomas
Executive Director

Honorable John R. McGinley
Chairman
Independent Regulatory Review Commission
14th Floor, Harristown 2
333 Market Street
Harrisburg, PA 17101

RE: Final Form Regulation
Pennsylvania Commission on Crime and Delinquency
Constables' Education and Training Board
Document No.: 35-26

Dear Chairman McGinley:

Enclosed is a copy of a final form regulation package of the Constables' Education and Training Board of the Pennsylvania Commission on Crime and Delinquency.

Our chief counsel, Gerard M. Mackarevich, will be pleased to provide whatever information that you and your staff may require during the course of its review of the rulemaking.

Sincerely yours,

A handwritten signature in cursive script that reads "James Thomas".

James Thomas
Executive Director

Enclosures

cc: Thomas W. Corbett, Jr., Esq.
Chair, Pennsylvania Commission on
Crime and Delinquency
Honorable James E. Russo
Chair, Constables' Education and Training Board
Mr. Stephen Spangenberg
Manager, PCCD Civil and Criminal Training Division
Gerard M. Mackarevich, Esq.
PCCD Chief Counsel

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 35-26
 SUBJECT: Constables' Education and Training Board
 AGENCY: PENNSYLVANIA COMMISSION ON CRIME & DELINQUENCY

TYPE OF REGULATION

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

RECEIVED
 8/13/01
 11:14 AM

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
8/3/01	Sandra Harper A.A.	HOUSE COMMITTEE ON JUDICIARY
8/3/01	Jane Mendelsohn	
Paula Foyantz 8/3/01		SENATE COMMITTEE ON JUDICIARY
Alaina Bucher 8/3/01		
8/3/01	Patricia Pagan	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU