

Regulatory Analysis Form

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REGULATORY REVIEW COMMISSION

(1) Agency

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

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

35-28

IRRC Number: 2170

(3) Short Title

Deputy Sheriffs' Education and Training Board

(4) PA Code Cite

37 Pa. Code Chapter 421

(5) Agency Contacts & Telephone Numbers

Primary Contact: Gerard Mackarevich
705-0888 Ext. 3034

Secondary Contact: Steve Spangenberg
705-3693 Ext. 3040

(6) Type of Rulemaking (check one)

Final regulation

(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.

With the proposed amendment to the current regulation, the Deputy Sheriffs' Education and Training Board would expand the scope of the basic training curriculum required for newly-hired deputy sheriffs. The expanded curriculum would include for the first time certain law enforcement-related topics, such as motor vehicle code enforcement, patrol procedures and investigative techniques. The additional topics would provide training attendees with the same type of training as that given to municipal police officers. The Board hopes, based on recent appellate precedent, that such "parity" in training would allow deputy sheriffs who have undergone the expanded training to exercise broader powers of arrest. The most significant change would replace a listing of nine topics set forth in the current regulation with a list of 24 topics. Also, the proposal would incorporate some provisions currently in the statement of policy, such as the paragraph relating to a code of conduct for training attendees. Finally, various housekeeping changes are added.

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

Authorized by sections 5 and 6 of the Deputy Sheriffs' Education and Training Act (71 P.S. §§ 2105-2106), as amended by section 2 of the Act of January 29, 1998 (P.L. 38, No. 10)

(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.

No.

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

Recent court decisions have held that deputy sheriffs who undergo training equivalent to that offered to municipal police officers under Act 120 may enforce the Vehicle Code. The public interest would be served by this regulation because additional officers having capability to enforce the Vehicle Code would contribute to highway safety. The Board seeks to add 200 hours of training in law enforcement related topics to the basic training curriculum for newly-hired deputy sheriffs. These topics, including Motor Vehicle Code and Enforcement, Patrol Procedures and Operations and Criminal Investigation, have not previously been included in Board training. Deputy sheriffs trained under this expanded curriculum will receive training that would be substantially equivalent to that provided to municipal police officers under Act 120.

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

No risks associated with nonregulation.

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

The public in each of the 67 counties will benefit to the extent newly-hired deputies are trained under the expanded basic training curriculum, because these deputies will possess training equivalent to Act 120-trained personnel and will therefore be able to make Vehicle Code arrests. In 2001, a total of 136 deputies successfully completed one of the Board's basic training courses. Another 138 with previous Act 120 certification took one of the shorter waiver courses. Because this regulation addresses continuing education as well as basic and waiver training, it will benefit all of the over 1,900 active deputy sheriffs in the Commonwealth.

(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.)

The basic training course will be expanded from its current 14 weeks (560) hours to one of 19 weeks (760 hours). Consequently, the trainees participating in the expanded program will be away from their home counties for a longer duration. Similarly, it is anticipated that their absence from their home counties will enhance the burdens placed on those counties in terms of staffing. Moreover, counties are required under the act to pay 50 percent of the regular salaries of deputies while they attend training, with PCCD reimbursing the other 50 percent. 71 P.S. §2109. Therefore, an expanded basic training

program will increase the salary costs for counties. However, these fiscal impacts will be lessened by the fact that a large percentage of new deputies certified by the Board (approximately half of the new deputies in 2001) obtain required training through the abbreviated waiver course, which is less than 100 hours in duration.

(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.)

During calendar 2001, a total of 136 deputies graduated from the basic training course, and 138 graduated from the waiver training course. These will be the approximate annual numbers affected by the initial certification (basic training or waiver training) aspects of this rulemaking. Also affected by the portions of the regulation relating to continuing education are deputies who have already undergone initial certification and are required by the act to complete continuing education every two years. According to Board records, 1,902 deputy sheriffs were employed as of July 25, 2002. Other entities that will be required to comply with the regulation are the 67 counties that send deputies to Board schools to be trained.

(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 designing the upgraded basic training program, PCCD staff on behalf of the Board conducted extensive public outreach to those likely to be affected. Job/task analysis surveys were distributed to sheriffs and deputy sheriffs across the state, resulting in 680 responses from 57 of the state's 67 sheriffs' offices. These responses were broken down as follows: 29 sheriffs (43.2% of all sheriffs), 41 chief deputies (61.2% of all chief deputies), and 610 deputy sheriffs (42.6% of all deputies). Subsequent to the initial analysis of survey responses, the Board and Temple University, the Board's training consultant, convened a series of focus group meetings to elicit input. All 67 sheriffs were invited to attend the meetings and/or send their chief deputies. In addition, each office was invited to send two deputy sheriffs to the meeting. A total of six groups met in August 1999, two each in Allentown, Harrisburg and Pittsburgh. A total of 25 sheriffs' offices participated in the focus groups, including 16 sheriffs, 18 chief deputies and 30 deputy sheriffs. Members of the Board and PCCD staff attended all of the sessions. In addition, PCCD distributed deputy sheriffs training bulletins to sheriffs' offices, county governments and other interested parties. Quarterly Board meetings during the time the upgrade was being considered were synchronized with the meetings of the Sheriffs' Association and the Deputy Sheriffs' Association of Pennsylvania, so as to maximize participation at the Board meetings. The Board conducts public meetings quarterly, usually in Harrisburg but sometimes in State College.

(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 increased number of hours of training will not increase costs to the newly-hired deputies taking the training. The Act at 71 P.S. § 2109 requires the Commission to pay for all tuition and other expenses, including costs of lodging and transportation to the training site in State College, and to reimburse the counties for 50 % of the deputy sheriffs' regular salaries that the counties are required to pay while the deputies attend approved schools. Consequently, the deputy sheriffs themselves will not be impacted. For an analysis of increased costs to counties, see Paragraph 18.

(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.

Each of the 67 counties will incur additional costs resulting from a 50% share of the regular salaries they are required to pay to deputies while they attend the basic training course, because their staff members will be away at school for a longer period (760 hours of training vs. 560 hours). Therefore, each county will incur increased overtime costs to replace the work of those deputies. However, it is not feasible to quantify the overtime costs, given the wide range of salary and benefit structures among the 67 counties, the varying numbers of new deputies to be hired, and the fact that many of the new deputies to be trained are part-time employees. Note also that approximately half of the new deputies will not need to take the full 760-hour course, due to prior Act 120 certification.

(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.

The Act set up a special restricted receipts account within the General Fund known as the Deputy Sheriffs' Education and Training Account, funded through surcharges collected at the county level relating to initiation of civil matters or service of process. Act 10 of 1998 provided for progressively higher surcharges in three succeeding fiscal years, topping off with the last increase that went into effect on January 1, 2000. As of that date, a surcharge of \$10 is being collected by the sheriff of each county upon acceptance for each service required for certain legal papers required to be served or posted by the sheriff. 71 P.S. §2108(b). This compares to a \$2 surcharge that was in effect prior to January 1, 1998. Such surcharges resulted in the collection of \$3,800,033 during the year ending June 30, 2002. The total cost of training incurred by the Board in that same year was \$2,714,545. Consequently, revenues exceeded expenditures by \$1,085,488 in fiscal 2001-2002. A surplus has been accumulating over the years. As of June 30, 2002, the balance in the Training Fund was \$6,625,112.

The estimated cost in fiscal 2002-03 for all of the training programs, including the current 560-hour basic training program, is projected at \$2,622,897. Implementation of the 760-hour basic training program in fiscal 2003-04, pursuant to this regulation, would increase costs by \$702,199. However, revenues will still exceed costs in fiscal 2003-04 due to surcharge collections that are projected at \$3,700,000.

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(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	Indeterminate	Indeterminate	Indeterminate	Indeterminate	Indeterminate
State Government	\$0	\$702,199	\$716,243	\$730,568	\$745,179	\$760,083
Total Costs	\$0	No less than \$702,199	No less than \$716,243	No less than \$730,568	No less than \$745,179	No less than \$760,083
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 estimates for state government costs are projections provided by PCCD based on historical experience of costs of administering the training programs. The projections are based on: 1) the past years' experience in the numbers of deputies to be trained (new hires are generally due to attrition) and an allowance for the slight yearly expansion in the overall number of deputies; 2) past and current training costs with allowance for projected cost increases and potential changes in the programmatic elements of contracts. The increased costs in succeeding years are attributable to an assumed annual 2 percent inflation factor.

The estimates for increased local government costs are indeterminate, as explained in the response to Question (18).

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

Program	FY -3	FY -2	FY -1	Current FY
Deputy Sheriffs' Education and Training	\$1,176,836	\$1,035,204	\$2,733,535	\$2,622,897

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

The increased skill levels of the Commonwealth's deputy sheriffs will outweigh any effects of added costs, which themselves are sufficiently absorbed by the increased revenues generated by surcharge increases mandated by Act 10 of 1998.

(22) Describe the nonregulatory 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.

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(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 U. S. Department of Justice in February 2000 published statistics for sheriffs' training nationwide. As of 1997, the average total number of training hours for new recruits ranged from 442 hours for the smallest jurisdictions (in terms of population served) to 1,003 for the largest. Increasing deputy sheriff basic training hours 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.

Yes. When the regulation becomes effective, §§ 421.101 – 421.104 will be deleted due to the incorporation of the statement of policy into the regulation.

(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 response to Question (16). However, the Board and PCCD will be open to accepting input from the field, including at the Board's quarterly meetings.

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(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

(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 with the date of publication of the final rulemaking in the *Pennsylvania Bulletin*.

(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)

NOV - 7 PM 3:00

LEGISLATIVE REFERENCE BUREAU
REVIEW COMMISSION

#2170

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 and Delinquency, Deputy Sheriffs' Education (AGENCY) and Training Board

DOCUMENT/FISCAL NOTE NO. 35 - 28

DATE OF ADOPTION: _____

BY: Robert D. Rosen

TITLE: DIRECTOR OFFICE OF FINANCIAL MANAGEMENT AND ADMIN.
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

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

BY: William K. Quinn
ASST. GEN COUNSEL

11/1/02
(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.

Final form regulation
Pennsylvania Commission on Crime and Delinquency
Deputy Sheriffs' Education and Training Board
37 Pa. Code Chapter 421
Deputy Sheriffs' Education and Training Board

TITLE 37 - LAW

DEPUTY SHERIFFS' EDUCATION AND TRAINING BOARD

[37 PA. CODE CH. 421]

The Deputy Sheriffs' Education and Training Board (Board), an advisory board within the Pennsylvania Commission on Crime and Delinquency (Commission), by this order amends chapter 421 of Title 37 as set forth in Annex A.

A. Effective Date

The amendments will be effective upon publication of the final-form regulation in the *Pennsylvania Bulletin*.

B. Statutory Authority

The amendment is authorized under the act of February 9, 1984, (P.L. 3, No.2), as amended by the act of January 29, 1998 (P.L. 38, No. 10), entitled the Deputy Sheriffs' Education and Training Act, set forth at 71 P.S. §§ 2101-2109. (act) The act empowers the Board, with the review and approval of the Commission, to "[m]ake rules and regulations and perform other duties as may be reasonably necessary or appropriate to administer the education and training program for deputy sheriffs." 71 P.S. § 2104 (10).

C. Background and Purpose

Legislation enacted in 1984 established the Board as an advisory board to the Commission. 71 P.S. § 2103(a). Among other things, the act mandates that a deputy sheriff be certified by the Board as having met all of the act's requirements in order for him or her to receive compensation for performing duties as a deputy sheriff. 71 P.S. §2107(c). The act originally directed the Board to set up a training program consisting of a total of 160 hours, to be determined by regulation. However, in 1998, the act was amended to direct the Board to set up a program of "not less than 160 hours, which content and hours of instruction shall be determined by the board subject to the review and approval of the commission." 71 P.S. §2105. On July 8, 2000, the Board as an interim step published a statement of policy in the *Pennsylvania Bulletin* that set the number of hours of basic training at 560 hours. With this rulemaking, the Board is setting the number of hours at no more than 760 hours, an expansion that will allow for the inclusion of additional topics to the basic training curriculum, including motor vehicle code and enforcement.

D. Summary of Comments and Responses on Proposed Rulemaking

Notice of proposed rulemaking was published at 31 Pa.B. 788 (February 10, 2001). Publication was followed by a 30-day public comment period during which the Board received comments from the Independent Regulatory Review Commission (IRRC) and three public commentators: the Pennsylvania State Association of Township Supervisors (PSATS); Thomas Speers, Esquire, solicitor for the Montgomery County Sheriff; and the Sheriffs' Association of the Commonwealth of Pennsylvania (Sheriffs' Association).

General comments

The Sheriffs' Association submitted a comment in full support of the proposed rulemaking.

Comments from PSATS and the Montgomery County Sheriff both challenged the statutory authority of the Board to promulgate a regulation of this scope. PSATS noted that the Board was attempting to expand the authority of deputy sheriffs by regulation instead of legislation. According to PSATS, this training could result in deputy sheriffs acting as municipal police officers without specific statutory authority to do so. Notwithstanding these comments, the Board is confident that the act at 71 P.S. § 2104 (10) provides suitable statutory authority to expand the basic training curriculum to include the listed topics. The Board also notes that the Supreme Court of Pennsylvania has held that a deputy sheriff who has received training equivalent to that of a municipal police officer with respect to the motor vehicle code may make a valid arrest for a vehicle code charge. *Commonwealth v. Kline*, 741 A2d 1281 (Pa. 1999).

The Montgomery County Sheriff commented that the expanded training as proposed by the Board would burden counties financially because it would require new deputy sheriffs from all counties to undergo the expanded training, even those from counties that do not intend to use deputy sheriffs for vehicle patrol duties. The commentator suggested that the expanded training be made optional at the choice of the individual county or sheriff, rather than mandatory as proposed by the Board.

The Board acknowledges the added cost factors that would result from expanded basic training. However, it notes that the training itself and most related expenses are being paid completely by the Board. Moreover, the act at 71 P.S. § 2109 requires the Commission to reimburse counties for the regular salary of deputy sheriffs in training at a 50% rate. Finally, due to other training certifications held, a large percentage of new deputies seeking Board certification are able to obtain required training through the abbreviated waiver course rather than the full basic training course. However, in response to the concerns raised, the Board asked the Commission to undertake a feasibility study regarding whether projected revenues from surcharges assessed under 71 P.S. § 2108 could accommodate an increase of the 50% salary reimbursement rate. That study culminated in action taken by the Commission at its September 2001 meeting to endorse legislative action to raise the reimbursement rate to 100%.

In response to these comments, the Board re-examined its position on the issue of mandatory versus optional training. Among other things, the Board conducted a meeting on July 10, 2001, with the associations that had submitted comments on the proposed rulemaking. With its approval of this final-form regulation, the Board signals its continuing commitment to the concept of uniform training for all new deputies. A uniform standard of training will generate a cadre of professionals who, having undergone the expanded training, will share the same set of enhanced skills. These enhanced skills will provide each deputy with increased employment opportunities, allowing him or her to move to a county that uses deputies for vehicle patrol even if his or her current employer does not do so.

The Montgomery County Sheriff also noted concern about the Board's practices regarding newly-hired deputies who were eligible for a partial waiver of basic training based on previous completion of a municipal public officers training program. At the time that the proposed rulemaking was published, the Board was requiring candidates for partial waiver to pass a Board waiver test to be able to forego full basic training and take an abbreviated waiver course instead. The commentator pointed out that the additional 200 hours' training would be a particular burden for counties whose deputies did not pass the Board's waiver test and, consequently, would be required to take a 760-hour course instead of a waiver course of approximately 100 hours. The Sheriff's concerns are no longer pertinent, however, because subsequent to the publication of the proposed rulemaking the Board eliminated the test requirement as a condition for entry into the waiver course.

Specific comments of IRRC

The Board received several comments from IRRC. The Board will address IRRC's comments in the order in which the regulatory sections appear.

§ 421.1 Definitions

In the proposed definition of "continuing education," IRRC considered the term "periodically" too vague to describe the frequency of required training, and suggested it be replaced with "two-years". The Board sees merit in this suggestion. However, rather than specifying the time frame, the Board has chosen to redraft the definition by making reference to the applicable statutory cite. The same approach is being taken with the definition of "basic training". The proposed definitions of "school" and "waiver" are being deleted for stylistic purposes and, in the case of "school," a substantive provision is added to § 421.31(c) that accomplishes the purpose the Board had intended by the definition in the proposed rulemaking. The Board also is adding a definition of "Commission."

§ 421.3. *Training required.*

Subsection (a)

The Board had increased the basic training requirement from its original 160 hours to its current level of 560 hours by publishing a statement of policy at 30 Pa. B. 3472 (July 8, 2000). In the preamble for the proposed rulemaking, the Board set forth its plan to add an additional 200 hours of law enforcement-related topics, for a total of 760 hours, but did not specify the number of hours in the proposed annex. The Board's intention had been to publish an updated statement of policy setting forth the new total at 760 hours. IRRC suggested that the Board reconsider and specify the number of hours in the final regulation. (PSATS also referenced the hours' issue in its comment.) IRRC stated that use of a statement of policy might subject the 760-hour program to legal challenge, whereas use of a regulation would set a binding norm with the full force and effect of law. In response to these comments, the Board adds language to this subsection setting the course of study at "no more than 760 hours." This terminology will signify that the Board has no intention to further expand the hours of basic training, and will allow downward adjustment of the total number of hours if necessary. Enactment of this final-form regulation will result in the deletion of §421.102 of the statement of policy in Chapter 421 of Title 37 of the *Pennsylvania Code*.

Subsection (b)

Using the same rationale as in subsection (a), IRRC suggested that the Board include a specific a number of hours in the final form regulation with respect to required continuing education. The 1998 amendment to the act allowed the Board to set the number of hours at "not less than 20 hours." Although the Board sees merit in using a more specific hourly reference than that contained in the proposed rulemaking, it is reluctant to be more specific than the phrase used in the 1998 amendment. Accordingly, the Board is deleting the term "as required by the act and by this chapter in the amount of hours established by the Board" and adding the phrase "of not less than 20 hours every two years." Enactment of this final-form regulation will result in the deletion of §421.104 of the statement of policy in Chapter 421 of Title 37 of the *Pennsylvania Code*.

Subsection (c)

The Board did not specify in its proposal the minimum scores that must be attained on tests to complete training courses. IRRC suggested that it do so. However, such specificity would prevent the Board from making adjustments as needed to what constitutes a passing grade. Furthermore, the training incorporates certain tests from outside entities, the passing scores for which are beyond the Board's control. The test for the module on cardio-pulmonary resuscitation is one such test. Because the outside entities might change the passing scores for these tests without consulting the Board, a regulation setting forth a specific passing score would be problematical. Finally, the existing regulation contains no reference to a specific numerical score. For all of these reasons, the Board declines to implement IRRC's suggestion. However, the

Board will notify trainees at the beginning of each course what constitutes a passing score, and has added language to the subsection to reflect this change.

§ 421.4. Waiver of basic training.

Subsection (a)

The Board adopts IRRC's suggestion that the phrase "for cause shown" is vague and could benefit from specific examples of what would constitute a reason for additional time to be granted for a newly hired deputy sheriff to fulfill the basic training requirements of the act. Moreover, the Board accepts IRRC's suggestion to insert a maximum time period for such a time extension.

Subsection (b)

IRRC suggested that the Board be specific about the criteria to be used to make a determination whether prior training and experience warrants a candidate to forego full basic training. Accordingly, the Board sets forth in this regulation criteria relating to the waiver program. Also, the Board adds language regarding the number of hours of waiver training. Similar to language added to §421.3(c), the Board sets forth a mechanism to notify the waiver trainee in advance of what constitutes a passing score on a test. Enactment of this final-form regulation will result in deletion of § 421.103 in the statement of policy currently set forth in the *Pennsylvania Code*.

§ 421.5 Code of conduct

The Board received no comments about this new provision. However, the Board sees a need to amend this section to set forth that it will make the attendance and conduct rules available to trainees prior to the start of the course. Enactment of this final-form regulation will result in deletion of § 421.102 in the statement of policy currently set forth in the *Pennsylvania Code*.

§ 421.12 Continuing education

IRRC commented that the Board's proposal to determine the topics of continuing education "periodically" is vague. The Board agrees with this comment, and has replaced that term with the phrase "every two years." IRRC also suggested that the Board provide additional explanation in this preamble about the development and availability of continuing education. Accordingly, the Board notes that it has implemented the requirements of the act by requiring deputy sheriffs every two years to complete a standard curriculum of courses of "not less than 20 hours" in schools that contract with the Commission to provide such uniform training. Course content is reviewed every two years and, if necessary, adjusted to reflect changing needs and emerging issues. IRRC also suggested that the regulation would benefit from more specificity as to where deputy sheriffs may obtain information on adjustments to continuing education

curriculum. Accordingly, the Board has included language in this section stating that, at least 14 days prior to the initial class in the current cycle of continuing education, the Board will make available to the public the list of topics to be taught in the course.

§ 421.31 Reimbursement to counties

Subsection (a)

The Board has made a style change.

Subsection (c)

IRRC suggested that the Board reword the cross-reference to the definition of “school.” Instead, the Board deletes the definition and adds substantive language to this subsection to make clear that the Board will provide reimbursement only for attendance at schools authorized by the Board.

Subsection (d)

IRRC suggested a language change in order to improve clarity. The Board has adopted IRRC’s suggestion.

Subsection (f)

The Board has adopted IRRC’s suggestion that it specify a time period for notifying the county about a reimbursement request that does not meet the necessary requirements. The Board also adopts the suggestion to specify the mode of delivery of such notice.

E. Affected Persons

Those directly affected by the regulation will be the newly-hired deputy sheriffs who are required to undergo mandated training. As of August 2002, the Board had initially certified a total of 3,288 deputies as having completed either basic training or waiver training during the Board’s 18-year existence. During the calendar year 2001, the Board trained a total of 275 new deputies. Also affected will be the sheriffs’ offices and county governments in each of the 67 counties, which send new deputies to Board training and which, pursuant to the act at 71 P.S. §2109, are responsible for half of the regular salary of the applicable participant(s) during the training.

F. Compliance with Executive Order 1996-1, Regulatory Review and Promulgation.

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.

G. Fiscal Impact and Paperwork Requirements

The regulation as amended will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector. The regulation as amended would have some fiscal impact on the Commonwealth and its political subdivisions. It will increase training costs borne by the Commission. Moreover, it will increase the number of hours that new deputies who take full basic training will spend in that course. Although the act at 71 P.S. § 2109 requires the Commission to reimburse each county for all of the living and travel expenses incurred by deputies at training, it requires Commission reimbursement of 50% of the deputies' regular salaries while attending school. It is anticipated that some counties will need to incur additional overtime expenses to cover for deputies away at training during the additional 200 hours. However, all of these fiscal impacts will be lessened by the fact that a large proportion of the new deputies certified each year by the Board obtain required training through the abbreviated waiver course. In 2001, 136 deputies graduated from the full 560-hour basic training course, and 138 graduated from the waiver course, which is less than 100 hours in duration.

H. Sunset Date

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

I. Regulatory Review

Under Section 5(a) of the Regulatory Review Act (71 P.S. §745.5(a)), the Board submitted on February 13, 2001, a copy of the notice of proposed rulemaking, published at 31 Pa.B. 788, to IRRC and the Chairpersons of the House Judiciary Committee and the Senate Local Government Committee.

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 and the public.

This final-form regulation was approved by the House Judiciary Committee on _____, 2002, and approved by the Senate Local Government Committee on _____, 2002. IRRC met on _____, 2002, 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 Gerard M. Mackarevich, Chief Counsel, PCCD, at PO Box 1167, Harrisburg, PA 17108-1167; telephone at (717) 705-0888 X 3034; facsimile transmission at (717) 214-9585; or electronic mail at gmackarevi@state.pa.us.

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 at 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 final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 31 Pa.B. 788.

(4) This final-form rulemaking is necessary and appropriate for administration of the Board's authorizing statute.

K. Order

The Board, acting under its authorizing statute, and with the approval of the Commission, orders that:

(1) The regulations of the Board, 37 Pa. Code Chapter 421 are amended to read as set forth in Annex A.

(2) The statement of policy set forth at §§ 421.101-421.104 of 37 Pa. Code Chapter 421 is deleted.

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

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

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

Thomas W. Corbett, Jr., Esq.
Chair
Pennsylvania Commission on
Crime and Delinquency

Commander Carmen Deluca
Chair
Deputy Sheriffs' Education and
Training Board

Fiscal Note: 35-28

ANNEX A

TITLE 37. LAW

PART VI. COMMISSION ON CRIME AND DELINQUENCY

CHAPTER 421. DEPUTY SHERIFFS' EDUCATION AND TRAINING BOARD

GENERAL PROVISIONS

§ 421.1. Definitions.

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Basic training—A course of training administered by the Deputy Sheriffs' Education and Training Board ~~that the act requires for newly hired deputy sheriffs~~ UNDER SECTION 5 OF THE ACT.

* * * * *

COMMISSION—THE PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY

Continuing education—A course of training administered by the Board ~~that the Act requires previously certified deputy sheriffs to complete periodically to maintain certification~~ UNDER SECTION 6 OF THE ACT.

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School—A ~~[school operated] facility approved by the Board to [teach basic or inservice deputy sheriff training courses] conduct training on the Board's behalf pursuant to a contract between the facility and the Commission.~~

Waiver—The Board's grant of approval for a deputy sheriff for reduced training hours in recognition of the deputy sheriff's prior education, training or experience

~~or for additional time to complete a training requirement.~~

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§ 421.3. Training required.

(a) A newly-hired deputy sheriff is required to undergo basic training as [set forth in sections 5—7 of the act (71 P.S. §§ 2105—2107)] ~~required by the act and by this chapter in the amount~~ of NOT MORE THAN 760 hours ~~established by the Board.~~

(b) [A deputy with less than 5 years of experience shall complete 160 hours of basic training, as established by the Board, by August 9, 1986. A deputy hired after July 1, 1985 shall complete the 160 hours of basic training within 1 year of the date-of-hire.]

A deputy sheriff holding Board certification is required to undergo continuing education as ~~required by the act and by this chapter in the amount of hours established by the Board~~ OF NOT LESS THAN 20 HOURS EVERY TWO YEARS.

(c) To successfully complete basic training or continuing education, a deputy sheriff shall attain at least a minimum score established by the Board on each written test and shall demonstrate proficiency in all practical skills. PRIOR TO THE COMMENCEMENT OF INSTRUCTION FOR WHICH A TEST WILL BE ADMINISTERED, THE BOARD WILL NOTIFY THE DEPUTY SHERIFF OF THE MINIMUM SCORE REQUIRED.

§ 421.4. Waiver of training.

[When a deputy sheriff requests a waiver of training under section 7(b) of the act (71 P.S. § 2107(b)), the request shall be made on a form supplied by the Board.]

(a) The Board upon request and for cause shown may ~~grant additional time~~ EXTEND THE TIME UP TO 1 YEAR for a newly-hired deputy sheriff to fulfill the basic training requirements of the act. EXAMPLES OF GOOD CAUSE ARE A MEDICAL PROBLEM, FAMILY CRISIS OR OBLIGATION, OR CONFLICT WITH OTHER EMPLOYMENT.

(b) The Board upon request may grant a deputy sheriff a reduction in the hours of BASIC training generally required. The ~~waiver~~ determination will be based upon the Board's evaluation of the prior education, training or experience of the deputy sheriff ~~pursuant to~~ UNDER THE FOLLOWING criteria ~~set forth by the Board.:~~

(1) THE BOARD WILL GRANT A FULL WAIVER OF BASIC TRAINING UPON APPLICATION BY A DEPUTY SHERIFF WHO HAS SERVED A FULL, 4-YEAR TERM AS SHERIFF WITHIN PENNSYLVANIA.

(2) A DEPUTY SHERIFF IN ONE OR MORE OF THE FOLLOWING CATEGORIES MAY APPLY FOR A PARTIAL WAIVER OF BASIC TRAINING:

(i) TRAINED BY THE PENNSYLVANIA STATE POLICE AND PREVIOUSLY EMPLOYED AS A MEMBER OF THE PENNSYLVANIA STATE POLICE.

(ii) CERTIFIED AS A MUNICIPAL POLICE OFFICER IN PENNSYLVANIA.

(iii) GRADUATED FROM A COURSE OF BASIC TRAINING APPROVED BY THE MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION.

(3) THE BOARD WILL GRANT A PARTIAL WAIVER OF BASIC TRAINING TO A DEPUTY SHERIFF IN ONE OR MORE OF THE CATEGORIES SET FORTH IN §421.4(b)(2) WHO HOLDS CURRENT CERTIFICATIONS IN BASIC FIRST AID OR ITS EQUIVALENT, ADULT/CHILD/INFANT CARDIO-PULMONARY RESUSCITATION (CPR) AND POLICE FIREARMS RANGE QUALIFICATION.

(4) A DEPUTY SHERIFF WHO HAS BEEN GRANTED A PARTIAL WAIVER OF BASIC TRAINING SHALL BE REQUIRED TO ATTEND A WAIVER COURSE OF NOT MORE THAN 100 HOURS ADMINISTERED BY THE BOARD, ATTAIN AT LEAST A MINIMUM SCORE ESTABLISHED BY THE BOARD ON EACH WRITTEN TEST, AND DEMONSTRATE PROFICIENCY IN ALL PRACTICAL SKILLS. PRIOR TO THE COMMENCEMENT OF INSTRUCTION FOR WHICH A TEST WILL BE ADMINISTERED, THE BOARD WILL NOTIFY THE DEPUTY SHERIFF OF THE MINIMUM SCORE REQUIRED.

§ 421.5. Code of conduct.

(a) The Board or school may establish reasonable rules governing attendance and conduct expected of a deputy sheriff who is attending training required under the act. THE BOARD WILL PROVIDE EACH DEPUTY SHERIFF WITH A COPY OF ANY RULES OF ATTENDANCE AND CONDUCT NO LATER THAN 14 DAYS PRIOR TO THE START OF INSTRUCTION.

(b) Violations of attendance policy or departures from the expected standards of conduct may result in the Board's imposition of disciplinary sanctions, which may include expulsion from the training or denying or withdrawing certification.

CURRICULUM

§ 421.11. Basic training [course].

[The Deputy Sheriffs' Basic Training Course shall be presented as established by the Board and shall consist of] The Board will determine the curriculum for basic training, which will include at least the following topics:

- (1) [Introduction to the powers and duties of sheriffs and deputy sheriffs.**
- (2) Firearms.**
- (3) Prisoner control.**
- (4) Emergencies and civil disorders.**
- (5) Courtroom security.**
- (6) Emergency medical care.**
- (7) Civil process and law.**
- (8) Criminal law.**
- (9) Related social sciences.]**
 - Civil law and procedure.**
 - (2) Communications.**
 - (3) Control and defensive tactics.**

- (4) Courtroom security.**
- (5) Crimes Code and criminal procedure.**
- (6) Criminal investigation.**
- (7) Criminal justice system and law enforcement.**
- (8) Crisis intervention.**
- (9) Cultural diversity and ethnic intimidation.**
- (10) Emergency management.**
- (11) Emergency vehicle operation.**
- (12) Ethics and professional development.**
- (13) Families in crisis and domestic violence.**
- (14) Firearms.**
- (15) First aid and cardio-pulmonary resuscitation.**
- (16) Motor vehicle code and enforcement.**
- (17) Patrol procedures and operations.**
- (18) Physical conditioning.**
- (19) Physical and judicial security.**
- (20) Prisoner transportation.**
- (21) Related social sciences.**
- (22) Related legal issues.**
- (23) Special needs groups.**
- (24) Unified court system.**

§ 421.12. Continuing education.

Continuing education will consist of topics to be determined periodically EVERY TWO YEARS by the Board. THE BOARD WILL MAKE AVAILABLE TO THE PUBLIC THE LIST OF COURSE TOPICS NO LATER THAN 14 DAYS PRIOR TO THE COMMENCEMENT OF COURSE INSTRUCTION.

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REIMBURSEMENT OF EXPENSES

§ 421.31. Reimbursement to counties.

(a) ~~{A} Except for those items that the Board provides directly to a deputy sheriff,~~ a A county shall initially pay the **deputy sheriff's ordinary and necessary living and travel expenses [of a deputy sheriff while the deputy is attending a school operated by the Board] in connection with training, EXCEPT FOR THOSE ITEMS THAT THE BOARD PROVIDES DIRECTLY TO A DEPUTY SHERIFF.**

(b) ~~[The] Upon application by a county, the~~ Commission will provide reimbursement as set forth in section 9 of the act (71 P. S. § 2109) **for items paid by the county.**

(c) THE COMMISSION WILL PROVIDE REIMBURSEMENT ~~Reimbursement will be given only for~~ **IN CONNECTION WITH A DEPUTY SHERIFF'S attendance at a school AUTHORIZED BY THE BOARD TO PROVIDE BASIC TRAINING OR**

CONTINUING EDUCATION as defined in ~~§ 421.1 (relating to definitions)~~ **this chapter.**

(d) The county may apply to the Commission for reimbursement, on a form to be supplied by the Commission, at the conclusion of the required **[basic] training [or continuing education course,]** for each deputy sheriff who has attended ~~the course~~ **BASIC TRAINING OR CONTINUING EDUCATION.**

(e) **[Requests shall be submitted by the county to the Commission within 30 days after the training is completed. A separate form shall be submitted for each deputy sheriff who attends the training course under the act.**

(f) Reimbursement will be limited to the following:

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[(g) If the Commission determines that the applicant and request for reimbursement meet the requirements of the act and this part, the Executive Director will issue written approval.

(h) (f) If the Commission determines that the application and request for reimbursement do not meet the requirements of the act and this part CHAPTER, the COMMISSION'S Executive Director OR DESIGNEE will [specify in writing and forward to the applicant, by certified mail, return receipt requested,] notify the county and specify SEND WRITTEN NOTIFICATION WITHIN 10 BUSINESS DAYS TO THE COUNTY BY REGULAR MAIL AND, IF FEASIBLE, ELECTRONIC

MAIL. THE NOTIFICATION WILL SET FORTH the reasons upon which the adverse determination is based.

§ 421.32. Restrictions on reimbursement.

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(c) A county will be reimbursed once, [**for up to 20 hours of training,**] for each deputy sheriff attending a certified continuing education course within a 2-year period.

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Commonwealth of Pennsylvania



PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY

Thomas W. Corbett, Jr., Esq.
Chairman

November 6, 2002

James Thomas
Executive Director

Honorable John R. McGinley, Jr.
Chairman
Independent Regulatory Review Commission
14th Floor, Harrisstown 2
Harrisburg, PA 17101

RE: Final Form Regulation
Pennsylvania Commission on Crime and Delinquency
Deputy Sheriffs' Education and Training Board
Document No.: 35-28

RECEIVED
PENNSYLVANIA COMMISSION ON
CRIME AND DELINQUENCY
NOV 6 2002 11:30 AM

Dear Senator Logan:

Pursuant to the Regulatory Review Act at 71 P.S. § 745.5a, I am submitting a copy of a final form regulation package of the Deputy Sheriffs' 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 your Committee 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
Commander Carmen Deluca
Chair, Deputy Sheriffs' Education and Training Board
Mr. Stephen Spangenberg
Director, Bureau of Training Services
Gerard M. Mackarevich, Esq.
PCCD Chief Counsel

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

I.D. NUMBER: 35-28
 SUBJECT: Deputy Sheriffs' 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

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
11/7/02	<i>Judy Sedese</i>	HOUSE COMMITTEE ON JUDICIARY
11/7/02	<i>Michael...</i>	
11/7/02	<i>Chen Muzdale</i>	SENATE COMMITTEE ON LOCAL GOVERNMENT
11-7-02	<i>B.L. Cain</i>	
11-7-02	<i>D. Pagan</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL
_____	_____	LEGISLATIVE REFERENCE BUREAU