

Comments of the Independent Regulatory Review Commission



Constables' Education and Training Board Regulation #35-32 (IRRC #2921)

Constables' Education and Training Board Amendments

January 4, 2012

We submit for your consideration the following comments on the proposed rulemaking published in the November 5, 2011 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Constables' Education and Training Board (Board) to respond to all comments received from us or any other source.

1. Fiscal impact.

This regulation proposes various amendments relating to certification and attendance policies for training and continuing education of constables and deputy constables. In the Regulatory Analysis Form (RAF #20), the Board provides an estimate of savings and costs associated with the regulation for the current year and five subsequent years. The Board projects an increase in the savings and costs of 8% per year for the five subsequent fiscal years. The Board should explain how it derived the 8% increase.

2. Clarity.

The first paragraph of the Preamble states that the Board is amending “§§ 431.14, 431.15, 431.22, 431.32, and 431.42.” However, this citation does not reflect all of the sections amended by this rulemaking, as the Annex also includes amendments to §§ 431.25, 431.35, 431.43, 431.47 and 431.48. In addition, the regulation does not amend § 431.32. The Board should correct this citation in the Preamble for the final-form regulation.

3. Section 431.25. Attendance policies. – Clarity.

“All or part”

This phrase is used inconsistently throughout the regulation with respect to a school’s assessment for a failing grade in various types of courses. In Subsection (a), the Board deletes the phrase when referencing assessment of a failed basic training course. However, Section 431.35(a) is amended to permit schools to assess “all or part” of a failing grade for a continuing education course. In Section 431.47(a), this phrase remains as existing language which would result in an

assessment of “all or part” of a failing grade for a firearms qualification course. We recommend that this phrase be used consistently in the final-form regulation.

“Deemed untimely”

Subsection (b) references a notice of a basic training course withdrawal that is “deemed untimely.” The final-form regulation should clarify how the Board establishes that notices are “deemed untimely.” Similar language is included for withdrawal notices for continuing education courses and firearms training courses in Sections 431.35 (b) and 431.47 (b).

Subsection (c)

Subsection (c) prohibits constables from attending another basic training course in the same training year of a successful completion of such a course. Section 431.47 (c)(1) also includes similar language with respect to firearms qualification courses. However, Section 431.35 (c) discusses a constable “or deputy constable” who successfully completes a continuing education course. Are only constables permitted to attend basic training and firearms qualification courses? The final-form regulation should clarify this issue.

4. Section 431.47. Attendance policies. – Clarity.

“Good cause”

Both sections 431.25 and 431.35 permit demonstration of “good cause” as a proper method of withdrawal from basic training and continuing education courses. However, Section 431.47(a) does not include “good cause” as a permissible manner of withdrawal. Nevertheless, Section 431.47(b) states that constables will bear the cost of additional firearms qualification courses if “good cause” is not shown. The Board should add a reference to “good cause” in Section 431.47(a) so that the attendance policies are consistent throughout the regulation.

In addition, Subsection (a) is titled “Withdrawal” and Subsection (b) is titled “Financial responsibility.” Sections 431.25 (a) and (b) and 431.35 (a) and (b) contain similar language but have no titles included. Why are the subsections in Section 431.47 titled? The Board should clarify this issue.