

Public Comment Separation of Regulatory Responsibility

The Department received a total of five public comments. One commenter posted to the Virginia Regulatory Town Hall website. Four commenters emailed DCJS staff their comments. Below is a summary of those comments followed by the comments as provided to the Department.

1. Two comments expressing appreciation for the revisions made in response to public feedback.
2. Definition of satellite facility is in 6VAC20-90-10 (new academy regulations) should it also be in 6VAC20-30-10 the regulations governing in-service
3. Term External training location definition is not included in definition sections of 6VAC20-50-10 (jailor, ct security, civil, process) or 6VAC20-60-10 (dispatchers)
4. Existing definition of satellite facility states what is not included listing several locations such as firing range etc. What are firing ranges, driver training sites, and physical fitness and defensive tactics sites classified as now?
5. Why can't a designee be authorized to sign the field training form?
6. Four comments related to the confusion and challenges with the definitions of external classroom and satellite facility
 - o Department approval of external training location prevents use of facilities
 - o Why is a satellite facility temporary?
 - o Academy director should have the approval authority.
 - o Academy staff has a limited availability to attend all trainings.
7. Recommending the elimination of regulations associate with satellite facilities and external training locations. Places and unnecessary burden on academies and hampers the ability to deliver training.
8. A series of technical revisions and substantive revisions to the regulatory language were proposed in one public comment.

Commenter: Captain R. C. Holland, Va State Police
Regulatory Language

I would like to thank DCJS members that listened to the input provided at the three meetings set up to discuss these extremely important changes, subsequently making revisions to the posted regulations.

The regulations, as amended and listed on the DCJS website under "Updated Regulatory Language", better articulate the practices that are currently in place.

However, I do have a couple of points that may need clarification:

- **Satellite Facility -**
 - Currently, the definition excludes:
 - "firing ranges, driver training sites and physical fitness or defensive tactics sites which may be located away from the certified academy facility. Commercial conferences and training facilities such as hotels and motels, which are used for mandated training, are specifically excluded from this definition."
 - This language was removed from the proposed definition, and therefore where do these locations fit in the definitions? Proposed Satellite Facility or External Training Location definitions don't seem to properly fit because these sites are not always "temporary", or they do not always have "academy staff" present, and some of these locations are used for basic training, not just in-service. I would like to see language added to address this deletion that is consistent with existing language that does provide clarity.
- **6VAC20-20-90**
 - states the "agency administrator" must sign the B-13. Is there any reason a designee or training administrator/coordinator, as designated by the agency administrator, cannot be authorized to sign this document?
- **6VAC20-90-70 and 6VAC20-90-80- Academy Certification and Re-certification:**
 - Proposed language establishes two different standards for a certification and recertification. Should they not both read "be assessed for compliance with the academy certification standards" - to maintain consistency in the evaluation standard?

Thank you for your time.

Tommie A. Bower
Executive Director
Skyline Regional Criminal Justice Academy

I was looking through the PDF version attached.. Thank you for amending the language for external training location... and I see that Satellite is under 6VAC-20-90-10... just curious if that definition should also be under 6VAC20-30-10?

Also, I do not see external training location definition listed under 6VAC 20-50-10, or 6VAC 20-60-10.

Commander Keith Smith
Roanoke County Criminal Justice Academy

Per Sharon Gray's email on August 3, I am sending you this email with a few concerns with the new proposed changes Regarding: Virginia Department of Criminal Justice Services Separation of Regulatory Responsibilities 6VAC20-20, 6VAC20-50, 6VAC20-60, 6VAC20-70, 6VAC20-90, 6VAC20-100.

As the Academy Director, I have also talked with the Department Heads of our Member Agencies of the Academy.

There is still a lot of confusion between an external classroom and a satellite facility. They seem very similar in the description however an external classroom has a lot more detail in the description.

The external classroom states that it must be approved by the Department. This would prevent us to use facilities such as our County Library which has an auditorium for a larger class unless the Department approves it. This wording also would prevent us from holding classes at schools or other buildings in the community. The types of training I am referring to would be active shooter training or building clearing. In this type of training it would be impossible for the Department to approve every location that we might use because it would be based on what buildings were available at the time.

The Director of the Academy should have the authority to make the decision if the classroom is appropriate for the training that is being held.

Another concern that we have is the wording that there must be an Academy Staff member present if one of these sites are being used. Depending on what the training schedule looks like for a particular day, we might not have the staff to be present at all of these locations.

I am assuming that the reason that this is in there is to make sure that everything is being conducted per DCJS and Academy policy such as filling out the sign in sheets and getting the evaluations completed. We put trust in our instructors to teach these classes so there should be enough trust in the instructors to be the representative for the Academy and to make sure that all policies are followed and that all forms are completed.

Thank you for your time.

Howard B. Hall
Chief of Police
Roanoke County Police Department

Good afternoon,

Thank you for the opportunity to comment on the proposed regulatory changes. For the most part, I concur with the revisions; however, I believe that the regulations associated with satellite facilities and

external training locations (6VAC20-30-60) should be eliminated. They are outdated and unnecessary as they relate to in-service training. These are decisions that should be the prerogative of the academy director/agency CEO.

It is often necessary or desirable to conduct training away from the Academy facility. This may be due to space limitation, geographical considerations, or facility requirements related to the specific training. The instructors responsible for delivering the training, whether they are agency employees or outside instructors, are in the best position to evaluate the suitability of a site. In our area, spaces in libraries, public schools, colleges, hotels/banquet facilities, or even private businesses are available and sometimes used. It is not feasible to pre-register these facilities or conduct reviews of their building inspections, first aid kits, etc. In some cases, the facility might not even be a classroom. For example, hands-on programs such as active shooter training may be delivered in areas appropriate for scenario-based training as opposed to traditional presentations. Again, the instructors and academies are in the best position to make these determinations.

It is also not necessary for an academy "staff" member to be present at all training. A certified instructor should certainly be sufficient to ensure that programs are delivered appropriately.

The regulations that I have cited create an unnecessary burden on academies and hamper the ability to deliver important training to our personnel. I would think that they also take time for DCJS staff to manage, which could be used for more productive activities. I strongly recommend that they be eliminated.

Thanks for your consideration,

Colonel Anthony S. Pike
Chief of Police
Division of Capitol Police

I have used the Law Enforcement section as exemplar and the section on academies because it is different, ***but these same changes are suggested to be made wherever similar language appears throughout the regulations:***

6VAC20-20-10. Definitions

Recommend the definition of certified criminal justice training academy be re-written as follows in all regulations:

“Certified criminal justice training academy” means a training facility in compliance with academy certification or recertification standards operated by the state or by one or more units of government that is used for the purpose of training criminal justice professionals.

Explanation for suggested changes:

The phrase “training facility includes a campus, thus the words “or campus” are surplusage.

Inclusion of the word “local” might implicitly preclude academies with joint membership that includes state and federal agencies.

The phrase “owned, leased, rented or used exclusively” is unnecessary and confusing. Because the Department does not prohibit use of leased or rented property, it is sufficient that the regulations refer to property used for the purpose of training criminal justice professionals. The word “exclusively” would appear to prohibit use of the property for more than one purpose, yet some academies might use parts of their training facilities for conducting briefings, as an incident command post during emergency events, or for other legitimate purposes that further criminal justice purposes but that are not within the commonly understood definition of training.

A. 6VAC20-20-25 B. The Committee on Training (COT) of the ~~Criminal Justice Services Board~~ board shall be the approval authority for the performance outcomes, training objectives, criteria, and lesson plan guides that support the performance outcomes.

This sentence should read as follows:

The Committee on Training shall be the approval authority for the performance outcomes, training objectives, criteria, and lesson plan guides that support the performance outcomes.

Explanation for suggested changes:

The use of COT as an abbreviation is explained in the definitions.

The description of the “Committee on Training” in the definitions makes the description of the COT as “of the board” surplusage.

6VAC20-20-25 C. recommend striking the phrase “filed for publication” and replace with the word “published”.

Explanation for suggested changes: Simpler and reads better.

6VAC20-20-40 B.4. ~~[5-4]~~ Administrative leave involving the determination of worker's compensation or disability retirement issues, ~~full-time educational leave~~ or suspension pending investigation or adjudication of a crime; ~~or~~.

This section does not sufficiently account for reasons for extending the time. By discussing “disability retirement” issues specifically, it necessarily excludes other disability or other fitness for duty related issues. By reference to investigation or adjudication specifically of a crime, it excludes a non-prejudicial administrative suspension of an officer during a professional responsibility or internal affairs investigation where the officer is not suspected of committing a crime. This treats an officer accused of a crime more favorably than an officer under investigation for less serious policy or conduct issues.

Suggested replacement language:

Administrative leave involving the determination of workers compensation, disability, or fitness-for-duty issues or suspension during the investigation or adjudication of conduct of the officer.

Also, the deletion of current paragraph B.4. may be undesirable. The ability of a recruit to be released for a special duty assignment may be educationally valuable for a police recruit and the agency, and such a release does not excuse the recruit from otherwise meeting all of the compulsory minimum training standards.

6VAC20-20-80 B. 6VAC20-90-130 and elsewhere

~~If the academy director considers a violation of B. Individuals violating the rules and regulations governing the certified [criminal justice] training academy determined to be detrimental to the welfare of the certified [criminal justice] training academy, the academy director may expel the individual or the safety of officers, visitors, or personnel may be expelled from the academy.~~

This sentence as proposed is not grammatically correct. In addition, this language, while apparently intending to give latitude to academy directors to dismiss recruits for issues related to safety, actually is restrictive and will potentially prevent dismissal of recruits for other reasons, including academic integrity, repeated conduct violations not affecting safety, tardiness or absence, refusal to follow lawful instructions, etc.

Suggested replacement language:

If an academy director determines an individual attending a certified criminal justice training academy has violated the rules or regulations of the academy, the director may expel the individual from the academy in accordance with the established procedures of the academy.

Explanation for suggested changes: The Department can review the adequacy of academy procedures related to expulsion of recruits during the course of academy certification and recertification without adoption of language in the regulations restricting the authority of academy directors and providing ammunition for potential legal actions based upon expulsions.

6VAC 20-90-20

Question for consideration: Is there a reason why the definition of “satellite facility” requires such a facility to be temporary?

6VAC 20-90-70 C.2.

The academy shall meet 100% the academy certification standards identified in the DCJS Certified Criminal Justice Training Academy Certification Checklist and Report in each of the following categories:

Comment: After 100% insert the word “of” to make the sentence grammatically correct.

6VAC 20-90-70 D.3. and 6VAC 20-90-80 D.2.b.

1. The academy will be given time to correct the situation, not to exceed 60 days.

Proposed substitute language: The academy will correct the noncompliance within 60 days.

Explanation for suggested changes: "Situation" is vague. It's unclear why the time should be uncertain. Simpler to just give the academy 60 days.

6VAC 20-90-100.A.3.

Revocation is a written notification by the director of the deactivation and removal of authorization issued under certification to operate as a certified [criminal justice] training academy for violations of this chapter for an indefinite period of time.

Recommend striking the words "issued under certification."

6VAC 20-90-100.A.3.

1. If there is a life, health, or safety issue or felonious criminal activity occurring during any department or academy approved training, at any location, the director may unilaterally revoke the academy's certification. The status of the revocation shall be reviewed at the next scheduled Criminal Justice Services Board meeting.

Comment: The word "unilaterally" is confusing in this context. It is expected that most revocations are unilateral. Is "summarily" the word DCJS intended to use?

6VAC 20-90-120.E.

The academy director shall certify [all] criminal justice professional have complied with the applicable rules relating to the compulsory minimum training standards and requirements. The academy director shall submit the following information using the department's electronic training records management system within 60 days of the last day of completing the compulsory minimum training or in-service training

Recommended change: Strike the word all and replace with the word “each”. Strike the word “have” and replace with the word “has”.