

EFFECTIVE MARCH 14, 2024 AS AN EMERGENCY REGULATION.

6VAC20-65-10 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Agency administrator" means any chief of police, sheriff, or agency head of a state or local law enforcement agency.

"Board" means the Criminal Justice Services Board.

"Department" means the Department of Criminal Justice Services.

6VAC20-65-20 Professional Standards of Conduct Applicable to all Certified Law Enforcement Officers and Certified Jail Officers

A. Pursuant to the provisions of subdivision 61 of § 9.1-102 of the Code of Virginia, the Department under the direction of the Board, shall adopt statewide professional standards of conduct applicable to all certified law enforcement officers and certified jail officers and appropriate due process procedures for decertification based on serious misconduct in violation of these standards.

B. All Certified Law Enforcement Officers and Certified Jail Officers must comply with the following standards:

1. To enforce the Constitution and laws of the United States and the Commonwealth of Virginia;
2. To demonstrate exemplary commitment to obeying the laws of the United States and the Commonwealth of Virginia and the policies of their employing agency;
3. To treat all individuals with dignity and respect, regardless of race or ethnicity, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, military status, disability, or other protected status, consistent with the Virginia Human Rights Act, Va. Code § 2.2-3900(B)(1);
4. To ensure the preservation of human life and the constitutional right of liberty, equality, and justice;
5. To uphold public trust;
6. To maintain the highest ethical standards;
7. To take every reasonable opportunity to enhance and improve professional knowledge and competence; and
8. To hold oneself and others accountable to the adherence of the aforementioned standards.

6VAC20-65-30 Designation of Serious Misconduct Warranting Officer Decertification

A. Pursuant to § 15.2-1707(B) of the Code of Virginia, the following types of misconduct by certified law enforcement officers or certified jail officers are so serious as to warrant decertification when an officer, of any rank, is terminated or resigns from their employing agency as a result of such misconduct, and the employer reports that information to the Board.

1. Knowingly, intentionally, or without a legitimate law enforcement purpose, making misleading, deceptive, untrue, or fraudulent representations in the practice of being or becoming a law enforcement or jail officer, including but not limited to:

a. Willfully falsifying or omitting any material information to obtain or maintain certification;

b. Obtaining a false confession or statement;

c. Filing a written police report containing a material false statement;

d. Making a false arrest;

e. Creating or using falsified evidence;

f. Failing to report known exculpatory and impeachment information in a criminal case to a superior officer, in accordance with agency reporting requirements;

g. Tampering with, hiding, destroying, or attempting to tamper with, hide, or destroy evidence or potential evidence with the purpose of creating a false impression; and

h. Committing perjury.

2. Knowingly and intentionally abusing the power inherent to the law enforcement and jail officer professions, including but not limited to:

a. Intentionally and willfully exploiting an individual's disability or other impairment for the purposes of securing either a law enforcement or jail officer outcome or personal benefit;

b. Tampering with a witness, victim, or informant;

c. Engaging in retaliation against any individual making a good-faith report of misconduct;

d. Engaging in a sexual relationship with an individual in the custody or care of the law enforcement or jail officer, or an individual the officer knows or should have known is a victim, witness, defendant, or informant in an investigation or matter the officer is involved in;

e. Intentionally, willfully, and without authorization, disclosing confidential information or information that may compromise an official investigation;

f. Intentionally and without authorization, using the employing agency's property, equipment, funds, or data for personal gain; and

g. Soliciting, or otherwise knowingly participating in, acts of bribery or extortion associated with the officer's official duties, as defined in § 2.2-3103 and Title 18.2, Chapter 10, Articles 2 and 3 of the Code of Virginia.

3. Knowingly and intentionally engaging in discriminatory policing or on-duty conduct toward incarcerated individuals, defined as an identified and uncorrected pattern of, or single egregious instance of, on-duty conduct demonstrating bias on the basis of such characteristics as race or ethnicity, color, religion, national origin, sex, pregnancy, childbirth or related conditions, age, marital status, sexual orientation, gender identity, military status, disability, or other protected status.

4. Knowingly and intentionally engaging in, failing to intervene when present and witnessing, or failing to report the use of excessive force, in accordance with § 19.2-83.6 of the Code of Virginia, unless such information was obtained in the course of participating in a critical incident stress management or peer support team pursuant to § 32.1-11.3 or disclosure would be in violation of § 19.2-274.1.

5. Knowingly and intentionally interfering with, or obstructing compliance with, the provisions of § 15.2-1707, including but not limited to:

a. Failing to report, investigate, and act on, as appropriate, known serious misconduct by another officer, and

b. Failing to cooperate with an investigation into potential law enforcement officer or jail officer misconduct.

6. Engaging in a pattern of acts, or a single egregious act, showing an intentional or reckless disregard for the rights, safety, or well-being of others, including but not limited to repeated use of prohibited practices for law enforcement officers during an arrest or detention, or violations of individual rights as guaranteed by the Constitution and laws of the United States and the Commonwealth of Virginia.

7. Engaging in any conduct unbecoming, that demonstrates an inability or unwillingness to uphold an officer's sworn oath.

6VAC20-65-40 Due Process Procedures for Decertification Resulting from Serious Misconduct

A. Written notification to the Department, pursuant to § 15.2-1707, shall be submitted using the DCJS Notification of Eligibility for Decertification form (DC-1), within 48 hours of becoming aware of an officer's eligibility for decertification.

B. The Department shall serve notice upon the decertified officer and agency, to include decertification action taken and remedies available in accordance with § 15.2-1708.

C. Appeal hearings shall follow due process procedures and steps in accordance with §§ 15.2-1707 and 15.2-1708.