

# IDAHO PEACE OFFICER STANDARDS & TRAINING PROCEDURE

## 12.25 OPENING DECERTIFICATION INVESTIGATIONS

### A. General

This procedure covers Peace Officer Standards and Training (POST) employee authority, responsibility and decision-making processes leading to opening a decertification investigation. Initiating and conducting the investigation are addressed in POST procedure 12.26 Conducting Decertification Investigations.

The POST Council has the duty to decertify any certified Idaho peace, adult detention, adult correction, reserve, adult misdemeanor probation officer or felony probation and parole officer; juvenile detention, juvenile correction or juvenile probation officer; or emergency communications officer who is convicted of any felony or offense that would be a felony if committed in Idaho; a misdemeanor offense involving domestic violence; or willfully falsifies or omits any material information to obtain certification; or violating any provision of the Idaho Uniform Controlled Substances Act, Section 37-2701 et seq., Idaho Code, whether charged or not, or of a comparable statute of another state or country, if the violation occurred while employed as a law enforcement officer, in a prosecutorial position, or in a position of public safety, regardless of when the illegal use occurred, (IDAPA rule 11.11.01.110.01(a) (b) (c) & (d), Mandatory decertification). The Council may also decertify any officer who violates the Council's Code of Ethics/Standards of Conduct set forth in IDAPA rule 11.11.01.057, or any section of IDAPA rule 11.11.01.110.02, Discretionary decertification.

Criminal conduct allegations made to POST against a certified officer are referred to the officer's employing agency head. Generally, a decertification investigation of criminal conduct occurs after the criminal investigation, prosecution and adjudication is completed.

The Office of Professional Responsibility (OPR) has the Council's authority to open, oversee and conduct decertification investigations.

### B. Definitions

"Credible information" means information independently verified and leads the OPR Manager to conclude there is sufficient cause to warrant an investigation into an alleged violation of IDAPA rules which, if found to be true, would justify decertification. A bare allegation without independent verification may be insufficient to trigger an investigation.

"Officer" means any person who has been certified in Idaho to be an officer (peace, adult detention, adult correction, reserve, adult misdemeanor probation or felony probation and parole; juvenile detention, juvenile correction or juvenile probation; or emergency communications.)

### C. Opening a Decertification Investigation from the POST Separation/Change in Status Form

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1. The POST Separation/Change in Status forms indicate the agency head's knowledge of officer misconduct as pertaining to IDAPA rule 11.11.01.057 or IDAPA rule 11.11.01.110 and the cause for separation or change in status:
  - a. resigned;
  - b. terminated;
  - c. dismissed;
  - d. retired; or
  - e. other
2. The OPR manager may contact the agency head to discuss the separation or change in status to determine the alleged misconduct.
3. When a decertification investigation appears warranted, the OPR manager completes an Investigation Order for the POST Division Administrator's (POST DA) approval.
4. The OPR manager opens an investigation following POST procedure 12.26 Conducting Decertification Investigations.

### D. Opening a Decertification Investigation from Other Information Sources

1. The OPR Manager may initiate a decertification investigation based upon credible information as defined in this procedure (12.25 B).
2. The OPR manager contacts the officer's employing or former employing agency head to discuss the allegations and the decertification investigation process.
3. If the officer is currently employed; it appears the allegations may be founded; and an internal investigation and agency action are underway; the POST investigation is held in abeyance until that investigation/action is concluded.
4. If it appears the allegations are founded and criminal investigation is underway, the POST investigation is held in abeyance until final adjudication is recorded.
5. If a wrongful termination appeal or other civil litigation pertaining to the officer's employment is filed, the POST decertification investigation is held in abeyance until the appeal or litigation process is completed.
6. When appropriate, the OPR manager opens an investigation under POST procedure 12.26 Conducting Decertification Investigations

### E. Opening an Investigation for Criminal Causes

1. Officers must notify their employing agency of any felony or misdemeanor citation within five business days. (IDAPA 11.11.01.110.03.a)
2. Agencies must notify POST within 14 days of learning of any officer's felony or misdemeanor citation. (IDAPA 11.11.01.110.03.b).
3. The OPR manager obtains and reviews the arrest report, charging documents and court records and informs the POST DA of the alleged criminal behavior.
4. The OPR manager tracks criminal citations/arrest cases through adjudication and reviews the case as appropriate.
5. The OPR manager determines whether a decertification investigation is warranted:
  - a. If no decertification will be sought, the OPR manager:
    - i. notifies the agency head;

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- ii. prepares a letter signed by the POST DA to the agency head and the officer stating decertification will not be pursued;
  - iii. closes the matter;
  - iv. updates all pertinent records and files; and
  - v. prepares the file for secure storage.
6. If decertification will be sought, the OPR manager begins the decertification investigation process under POST procedure 12.26 Conducting Decertification Investigations.
7. A felony conviction results in automatic decertification. The OPR manager:
  - a. monitors the prosecution to its conclusion;
  - b. upon conviction, obtains copies of the order of conviction and other relevant documentation;
  - c. opens a decertification case for statistical purposes and assigns it to OPR;
  - d. prepares a Report of Investigation noting the facts of the case;
  - e. forwards a copy to the management assistant to prepare a Final Order for decertification; and
  - f. scans the file into the decertification file.
8. If there is no conviction as a result of felony charges, a preliminary inquiry and/or investigation is initiated in accordance with the above reference procedures to determine the officer's potential violations of the Code of Ethics.

