



# POST Investigations Bulletin

State of Utah

## Department of Public Safety Peace Officer Standards and Training



December 2019

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One of the duties of the Peace Officer Standards and Training (POST) Council is to establish and enforce rules of conduct for certified peace officers and certified dispatchers throughout the state. During each POST Council Meeting, the Council reviews cases investigated by the POST Investigations Bureau and rules on the suspension or revocation of these individuals in accordance with Utah Code 53-6-211 and 53-6-309. The decisions the Council makes help to define acceptable and unacceptable conduct for Utah peace officers and certified dispatchers.

Please note that the actions taken by the POST Council are not binding precedent. The POST Council makes every effort to be consistent in its decisions, but each case is considered on its own individual facts and circumstances. The *POST Investigations Bulletin* is a sample of the cases heard by the POST Council and is published to provide insight into the Council's position on various types of officer misconduct. This bulletin is intended to be used as a training document; therefore, it is the policy of POST not to use the names of individual officers or agencies, even though that information may be part of the public record.

On December 4, 2019, POST Council convened and considered 16 cases for discipline.

### **Case 1 BCI violation**

Officer A was investigated for a BCI violation. The investigation disclosed that on Officer A accessed protected information to conduct a record check on a vehicle without a law enforcement purpose. The internal investigation determined Officer A violated department policy and he did not have a valid law enforcement purpose to access protected records to conduct a record check on the vehicle.

During *Garrity* interviews with his agency and POST, Officer A did not recall accessing protected information on the vehicle and said he did not know why he would have conducted a record check on the vehicle even though the driver was known to him. Officer A explained he was in a personal dispute with the driver's co-workers during the time of this incident and knew who she was when he observed her marked company vehicle.

A Notice of Agency Action was filed by POST and mailed to Officer A. Officer A requested to have a hearing held before the administrative law judge (ALJ). The ALJ subsequently issued findings of facts and conclusions of law stating Officer A violated UCA 53-6-211 as outlined in the notice of agency action. Considering Officer A did not disseminate the protected information, POST recommended Officer A receive a letter of caution. After hearing POST's findings, and hearing from Officer A and his attorney, the Council ratified POST's recommendation and voted issue Officer A a letter of caution.

### **Case 2 Domestic violence related disorderly conduct, intoxication**

Officer B was investigated for domestic violence related assault and intoxication. The investigation disclosed Officer B had taken his children and ex-wife camping the previous night. While at the campsite, Officer B and his wife drank excessively. Later in the evening, Officer B had an argument with his ex-wife. During the argument Officer B's ex-wife claimed he pushed her which caused her to fall and sustain a cut on her head from a flatbed trailer. Officer B told her he did not push her. One of Officer B's children heard the argument and exited her tent. Officer B's daughter told Officer B he needed to go to bed because he was drunk. Officer B slept in a tent and Officer B's ex-wife slept in her vehicle. The following day Officer B's ex-wife reported the incident to law enforcement. Officer B was contacted by law enforcement, investigated for the criminal allegations, arrested, and booked into the county jail. Officer B was booked into jail for domestic violence related assault, three counts of domestic violence in the presence of a child, and intoxication.

During the POST *Garrity* interview, Officer B denied pushing his ex-wife down or even seeing his ex-wife fall to the ground. Officer B said his daughter did come out of the tent and told him to go to bed because he was drunk.

Officer B entered a plea in abeyance to the charges of disorderly conduct with an attached domestic violence attribute, under Utah Code Ann. §76-9-102, a class B misdemeanor, and intoxication with an attached domestic violence attribute, under Utah Code Ann. § 76-9-701 (1), a class C misdemeanor.

A Notice of Agency Action was filed by POST and mailed to Officer B. Officer B waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the notice of agency action. POST recommended a two (2) year suspension of Officer B's certification. After hearing POST's findings, the Council ratified POST's recommendation and voted to suspend Officer B's certification for two (2) years.

### **Case 3 BCI violation**

Officer C was investigated by his department for a BCI violation. The investigation disclosed that Officer C had accessed protected records to verify if his current address had been updated on his and his wife's driver license. No criminal charges were screened.

During a *Garrity* interview with his agency and POST, Officer C admitted to unlawfully accessing protected information. Officer C said he had been trained on the proper use of UCJIS and knew that checking his address by accessing protected information was not permitted. Officer C did not disseminate the information that he accessed.

A Notice of Agency Action was filed by POST and mailed to Officer C. Officer C waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the Notice of Agency Action. Considering Officer C did not disseminate the protected information, POST recommended Officer C receive a letter of caution. Officer C was present at the Council meeting and spoke to the Council. After hearing POST's findings, and hearing from Officer C, the Council ratified POST's recommendation and voted to issue Officer C a letter of caution.

### **Case 4 DUI**

Officer D was investigated by a local police agency for driving under the influence of alcohol (DUI). The investigating officer determined Officer D was impaired and arrested him for DUI. Officer D submitted to a chemical breath test which measured his BrAC at 0.089. A subsequent sample was obtained to verify the Baker time frame to ensure there was not anything in his mouth which could invalidate the test and the subsequent sample measured 0.073 BrAC. Officer D was charged with DUI and resigned from his position with his agency before an internal administrative investigation could be completed. Criminal adjudication is pending at the time this bulletin was written.

During a *Garrity* interview with POST, Officer D admitted he was impaired and DUI according to the Utah state statute.

A Notice of Agency Action was filed by POST and mailed to Officer D. Officer D waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the Notice of Agency Action. Considering Officer D had previously been sanctioned by POST Council for DUI, POST recommended Officer D's certification be suspended for a period of eighteen (18) months. After hearing POST's findings, the Council rejected POST's recommendation and voted to suspend Officer D's certification for two and one-half (2 ½) years.

#### **Case 5** **Willful falsification of any information to obtain certification**

Officer E was investigated by POST for willfully falsifying any information to obtain certification. The investigation disclosed that Officer E had been arrested for rape while in the military. Officer E did not disclose the arrest on his POST application in 2015. Officer E also documented "No" under the question "Have you ever been part of a court martial by a military tribunal or received military sanctions." Officer E had received discipline from the military to include a loss of pay and rank. No criminal charges were filed.

During a *Garrity* interview with POST, Officer E admitted to being handcuffed and arrested for the crime of rape. Officer E admitted to being disciplined by the military for his conduct. Officer E stated he did not document the rape allegation on his POST application because he was not charged with rape. Officer E said the military charged him with indecent acts instead of rape. Officer E said he was not criminally charged but received military discipline. Officer E admitted he did not document the military sanctions on his POST application.

A Notice of Agency Action was filed by POST and mailed to Officer E. Officer E failed to respond to the notice of agency action. An order of default was signed by the administrative law judge and mailed to Officer E. POST recommended a two (2) year suspension of Officer E's certification. After hearing POST's findings, the Council ratified POST's recommendation and voted to suspend Officer E's certification for two (2) years.

#### **Case 6** **Willful falsification of any information to obtain certification**

Officer F completed an application to attend POST training for corrections. Officer F did not disclose obtaining or using prescription drugs illegally. On a later date, Officer F completed a second application to attend POST training for law enforcement certification. In the second application, Officer F disclosed he was addicted to opioids and was purchasing and using prescription drugs illegally between the years of 2006-2010.

During a POST *Garrity* interview, Officer F confirmed that he had an opioid addiction between the years of 2006-2010 and was purchasing and using prescription opioids illegally. Officer F stated he had notified the initial law enforcement agency during the hiring process. The agency was contacted, and stated Officer F had not disclosed his illegal prescription drug information, either verbally or in writing. Had the information of the drug addiction and illegal prescription use been disclosed to POST in the first application, Officer F would not have been allowed to attend training.

A Notice of Agency Action was filed by POST and mailed to Officer F. Officer F waived his right to a hearing before an administrative law judge and stipulated to the facts as contained in the Notice of Agency Action. Officer F and his attorney were present and the Council meeting and spoke to the Council. POST recommended Officer F's certification be suspended for two (2) years. After hearing from Officer F, his attorney, and POST's findings, the Council ratified POST's recommendation and voted to suspend Officer F's certification for two (2) years.

### **Case 7**

#### **Willful falsification of any information to obtain certification, lying under *Garrity***

Officer G was investigated by POST for willful falsification of application to obtain certification. Officer G was charged with trespassing as a juvenile and did not document that crime on his POST application. Officer G also documented two traffic citations on his POST application and one traffic citation on his addendum. Investigators located an additional eight traffic violations in which he paid a fine that Officer G did not document on his POST application. POST verified with Officer G's employing agency's background investigator that the traffic citations were discussed with Officer G prior to Officer G completing his POST application.

During a *Garrity* interview with POST, Officer G admitted to being charged with trespassing and told investigators that he still had the citation he was given. Officer G was asked why he did not document the trespass charge and he responded "I probably misread the question." (NOTE: the question was "Have you had any other arrests, criminal involvement, or convictions not previously identified as both a juvenile and adult?"). After reviewing his POST application and his addendum with Officer G, to include the criminal charges and traffic citations that he documented on his POST application, POST asked Officer G "is there was anything else that you haven't put on your application or that you can remember not putting on your application." Officer G responded "No, we have the tickets, the arrest, the trespassing." POST clarified with Officer G that a citation was considered an arrest and asked him if there was anything else that he had been convicted for, arrested for, or involved in that he did not document on his POST application. Officer G again stated that he had documented everything. POST was aware of the eight traffic citations that Officer G had not documented on his POST application prior to his *Garrity* interview and gave him multiple opportunities to disclose the traffic violations that he had not yet disclosed. Officer G never disclosed the eight traffic citations during the *Garrity* interview with POST.

A Notice of Agency Action was filed by POST and mailed to Officer G. Officer G failed to respond to the Notice of Agency Action. An order of default was signed by the administrative law judge and mailed to Officer G. POST recommended Officer G's certification be revoked. After hearing POST's findings, the Council ratified POST's recommendation and voted to revoke Officer G's certification.

### **Case 8**

#### **Lying under *Garrity***

Officer H was investigated for an allegation of having an affair and engaging in sexual conduct on duty. Two department *Garrity* interviews were conducted with Officer H. During both department *Garrity*

interviews, Officer H denied having any sexual relationship with the female. Officer H said he kissed the female on two separate occasions but that was the extent of their relationship. The female was contacted by Officer H's department and she admitted to having sex with Officer H on at least two occasions. The female said one of the times she had sex with Officer H, he arrived at her residence in his patrol vehicle and uniform.

During a *Garrity* interview with POST, Officer H denied doing anything on duty and denied having a sexual relationship with the female. The POST investigation could not prove that Officer H engaged in sexual conduct on duty, however, POST was able to obtain several text messages and marriage counseling notes that verify there was an extra-marital affair between Officer H and the female and that something more than kissing occurred. Therefore, even though POST was unable to sustain the sexual conduct on duty allegation, POST did sustain several *Garrity* violations throughout the investigation.

A Notice of Agency Action was filed by POST and mailed to Officer H. Officer H failed to respond to the Notice of Agency Action. An order of default was signed by the administrative law judge and mailed to Officer H. POST recommended revocation of Officer H's certification. After hearing POST's findings, the Council ratified POST's recommendation and voted to revoke Officer H's certification.

### **Case 9** **Sexual misconduct with a 16 or 17-year-old**

Officer I went to the house of a 16-year-old juvenile he met on a social media dating app. Officer I and the juvenile engaged in sexual acts that constitute unlawful sexual misconduct with a 16 or 17-year-old. Officer I was interviewed the same day and admitted the two laid on a couch, while clothed, and started kissing. Officer I also admitted he was grinding his penis against the juvenile and stroked the juvenile's penis and inner thigh area with his hand but stated he did not know the juvenile was 16. Officer I was booked into jail. During the preliminary and criminal trial, the juvenile testified oral sex occurred between Officer I and himself. At the conclusion of a jury trial, Officer I was found guilty of one third degree felony and one class A misdemeanor of unlawful sexual misconduct with a 16 or 17-year-old. The court dismissed the class A misdemeanor with prejudice. Officer I did not participate in the POST investigation.

A Notice of Agency Action was filed by POST and mailed to Officer I. Officer I failed to respond to the Notice of Agency Action. An order of default was signed by the administrative law judge and mailed to Officer I. POST recommended Officer I's certification be revoked. After hearing POST's findings, the Council ratified POST's recommendation and voted to revoke Officer I's certification.

### **Case 10** **Child abuse, intoxication, disorderly conduct**

Officer J was investigated by a local police agency for child abuse and intoxication. The investigation disclosed that Officer J was highly intoxicated and vomited on the floor in the front room. Officer J picked up a towel his wife had been using to clean up the vomit and threw it at her. A verbal argument then ensued between Officer J and his 17-year-old stepdaughter over how he was treating her mom. Officer J stood, clenched his fists and closed the distance between him and his stepdaughter, then punched her right shoulder, causing her to fall backwards onto a couch. Officer J was booked into jail on intoxication and child abuse.

Officer J was terminated from his employment. Officer J entered a guilty plea to be held in abeyance to disorderly conduct under Utah Code Ann. § 76-9-701, as a class C misdemeanor, the intoxication and child abuse charges were dismissed.

During a *Garrity* interview with POST, Officer J admitted to drinking three to four beers while working in the basement, then waking up in the jail. Officer J said he did not remember anything else and did not know why he blacked out.

A Notice of Agency Action was filed by POST and mailed to Officer J. Officer J failed to respond to the Notice of Agency Action and an order of default was signed by the administrative law judge and mailed to Officer J. Considering there were multiple offenses, POST recommended a three (3) year suspension of Officer J's certification. After hearing POST's findings, the Council ratified POST's recommendation and voted to suspend Officer J's certification for three (3) years.

### **Case 11 Assault**

Officer K was investigated by a police department in Florida for battery. The investigation disclosed that on Officer K was involved in a physical altercation at a pub. An off-duty police officer observed Officer K push a security guard and then attempt to punch the security guard. Officer K was arrested by the officer. Officer K was charged with battery, a misdemeanor 1<sup>st</sup> degree. The charge of battery was dropped/abandoned on the same day.

Officer K spoke with a POST investigator via the telephone. Officer K said he was involved in a physical fight in a bar in Florida. Officer K requested a voluntary relinquishment (VR) form, which was emailed to him. Officer K said it would save POST from doing an investigation on him for being "a drunk asshole at a bar." Officer K never submitted the VR form and did not participate in the POST investigation.

A Notice of Agency Action was mailed to Officer K. Officer K failed to respond to the Notice of Agency Action and an order of default was signed by the administrative law judge and mailed to Officer K. POST recommended Officer K's certification be suspended for two (2) years. After hearing POST's findings, the Council ratified POST's recommendation and voted to suspend Officer J's certification for two (2) years.

### **Case 12**

#### **Failure to stop at command of law enforcement, DUI, reckless driving, resisting arrest, hit and run crash**

Officer L was observed driving recklessly by a local agency. An officer attempted to stop Officer L, who sped off at over a 100 MPH, hit a traffic sign, and rolled his vehicle at the bottom of an off ramp. Officer L fled the scene on foot but was located and taken into custody. After being placed in handcuffs, Officer L ran away and was recaptured. After exhibiting multiple clues of impairment, a blood sample was obtained from Officer L which measured 0.12 BAC.

Officer L was convicted of failing to stop at the command of law enforcement, which was amended from a 3rd degree felony to a class A misdemeanor and for DUI, a class B misdemeanor. The other four charges were dismissed with prejudice.

Officer L did not participate in the POST investigation.

A Notice of Agency Action was mailed to Officer L. Officer L failed to respond to the Notice of Agency Action. An order of default was signed by the administrative law judge and mailed to Officer L. POST recommended revocation of Officer L's certification. After hearing POST's findings, the Council ratified POST's recommendation and voted to revoke Officer L's certification.

### **Case 13**

#### **Driving under the influence of alcohol, willful falsification of any information to obtain certification**

Dispatcher M was investigated for DUI by a local police agency. The investigation disclosed Dispatcher M had taken Ambien and Xanax earlier in the day and operated a motor vehicle. Dispatcher M was arrested for DUI and submitted to urine and blood tests. The urine test showed positive for benzodiazepines.

Dispatcher M entered a plea of no contest to impaired driving, a class B misdemeanor. Dispatcher M's employment was terminated.

The POST investigation also determined Dispatcher M failed to disclose a domestic violence related criminal trespass of a dwelling and intoxication incident on her POST application.

Dispatcher M failed to appear for a scheduled interview with POST and did not participate in the investigation.

A Notice of Agency Action was mailed to Dispatcher M. An order of default was signed by the administrative law judge and sent to Dispatcher M after she failed to respond to the Notice of Agency Action. Considering there were multiple offenses, POST recommended a three (3) year suspension of her certification. After hearing POST's findings, Council ratified POST's recommendation and voted to suspend Dispatcher M's certification for three (3) years.

### **Case 14**

#### **DUI, failure to stop at command of peace officer, carrying a dangerous weapon while under the influence of alcohol, hit and run crash**

Officer N was investigated by a police agency for DUI, disorderly conduct, failure to stop or respond at the command of police, carrying a dangerous weapon under the influence of alcohol and failing to remain at the scene of an accident. The investigation disclosed officer were dispatched to a party. As they arrived, officers observed Officer N driving his vehicle through lawn and into a large metal mailbox. Officer N drove away from the crash scene and responding officers attempted to stop him. Officer N ran a red light and was swerving all over the road. Officers were able to stop Officer N and arrest him for DUI. While investigating this incident, officers located a loaded handgun and loaded magazines in Officer N's vehicle (driver's side floorboard).

Officer N was transported to jail and booked on the above charges. The county attorney's office filed the charges of: driving under the influence of alcohol/ drugs, a class B misdemeanor; fail to stop or respond at command of police, and a third degree felony; and failure to remain at scene of accident with damage, a class C misdemeanor. Officer N later entered a plea of guilty to the DUI. The charges of failing to stop or respond at command of police and failure to remain at the scene of accident were dismissed with prejudice.

Officer N was served with a notice of termination from his employer.

Officer N asked POST if he could be interviewed after the criminal proceedings. Officer N has not responded to any subsequent attempts to contact him.

A Notice of Agency Action was mailed to Officer N. Officer N failed to respond to the Notice of Agency Action. An order of default was signed by the administrative law judge and mailed to Officer N. Considering there were multiple offenses, POST recommended revocation of Officer N's certification. After

hearing POST's findings, the Council ratified POST's recommendation and voted to revoke Officer N's certification.

### **Case 15**

#### **Possession or use of a controlled substance, lying under *Garrity***

Officer O was investigated by his agency for steroid use and lying under *Garrity*. The investigation disclosed Officer O was attending the police academy when he told a co-worker that he had been using steroids.

During a *Garrity* interview with his agency, Officer O denied that he had been using steroids. Officer O submitted to a urine chemical test and the result showed positive for steroids. Officer O was terminated from his agency.

During a *Garrity* interview with POST, Officer O admitted he used steroids approximately 10 days prior to starting the police academy and he admitted he lied to his agency after being advised of the *Garrity* warning.

A Notice of Agency Action was mailed to Officer O. Officer O failed to respond to the Notice of Agency Action. An order of default was signed by the administrative law judge and mailed to Officer O. POST recommended revocation of his certification. After hearing POST's findings, the Council ratified POST's recommendation and voted to revoke Officer O's certification.

### **Case 16**

#### **Possession of firearm by restricted person, violation of protective order**

Officer P was investigated by a local agency for possessing a firearm while being a restricted person due to an active protective order (NOTE: The protective order was issued after Officer P made threats to kill his estranged wife and two four-year-old sons). The local agency learned that Officer P met his brother at Officer P's storage unit. While at the storage unit, Officer P opened a gun safe, took out a Glock handgun, and placed it in his waistband. Officer P then left the storage unit with the handgun in his possession.

Officer P's brother knew Officer P was not allowed to possess a firearm due to the protective order and the reasoning for the protective order. Officer P's brother reported the incident to the local agency who conducted a criminal investigation. Charges were filed on Officer P with the district attorney's office for possession of a firearm by a restricted person, a 3<sup>rd</sup> degree felony, and a violation of a protective order, a class A misdemeanor.

Officer P pled guilty to an amended charge of possession of a firearm by a restricted person, a class A misdemeanor, and a violation of a protective order, with an attached domestic violence attribute, a class A misdemeanor. Officer P did not participate in the POST investigation.

POST discovered Officer P was the subject of a prior case presented to the POST Council. The allegations were driving under the influence of alcohol and intoxication. The POST Council subsequently suspended Officer P's certification for a period of two and a half (2 ½) years.

A Notice of Agency Action was mailed to Officer P. Officer P failed to respond to the Notice of Agency Action. An order of default was signed by the administrative law judge and mailed to Officer P. POST recommended revocation of Officer P's certification. After hearing POST's findings, the Council ratified POST's recommendation and voted to revoke Officer P's certification.



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*Special Note: The disciplinary proceedings of the POST council are administrative and are independent from any criminal prosecution. POST Investigations is charged with investigating misconduct to determine if there is clear and convincing evidence that a peace officer or certified dispatcher has violated Utah Code 53-6-211 or 53-6-309. The fact that a peace officer or certified dispatcher has been convicted of a criminal violation, or has plead guilty to a criminal violation, is in and of itself clear and convincing evidence that the peace officer or certified dispatcher has violated Utah Code 53-6-211(1)(d) or 53-6-309(1)(d). Where there is clear and convincing evidence to show a violation has taken place POST is obliged to bring that matter to the Council. The POST Council has the statutory authority to determine what the appropriate sanction should be.*

For reference we have included below Utah Code 53-6-211 and Utah Code 53-6-208. The POST Council Disciplinary Guidelines can be found online at <http://publicsafety.utah.gov/post/>. Please direct any questions regarding the statute or the POST investigation process to [support@utahpost.org](mailto:support@utahpost.org)

**53-6-211. Suspension or revocation of certification -- Right to a hearing -- Grounds -- Notice to employer -- Reporting.**

- (1) The council has authority to suspend or revoke the certification of a peace officer, if the peace officer:
  - (a) willfully falsifies any information to obtain certification;
  - (b) has any physical or mental disability affecting the peace officer's ability to perform duties;
  - (c) is addicted to alcohol or any controlled substance, unless the peace officer reports the addiction to the employer and to the director as part of a departmental early intervention process;
  - (d) engages in conduct which is a state or federal criminal offense, but not including a traffic offense that is a class C misdemeanor or infraction;
  - (e) refuses to respond, or fails to respond truthfully, to questions after having been issued a warning issued based on *Garrity v. New Jersey*, 385 U.S. 493 (1967);
  - (f) engages in sexual conduct while on duty; or
  - (g) is certified as a law enforcement officer, as defined in Section 53-13-103 and is unable to possess a firearm under state or federal law.
  
- (2) The council may not suspend or revoke the certification of a peace officer for a violation of a law enforcement agency's policies, general orders, or guidelines of operation that do not amount to a cause of action under Subsection (1).
  
- (3)
  - (a) The division is responsible for investigating officers who are alleged to have engaged in conduct in violation of Subsection (1).
  - (b) The division shall initiate all adjudicative proceedings under this section by providing to the peace officer involved notice and an opportunity for a hearing before an administrative law judge.
  - (c) All adjudicative proceedings under this section are civil actions, notwithstanding whether the issue in the adjudicative proceeding is a violation of statute that may be prosecuted criminally.
  - (d)
    - (i) The burden of proof on the division in an adjudicative proceeding under this section is by clear and convincing evidence.
    - (ii) If a peace officer asserts an affirmative defense, the peace Dispatcher Has the burden of proof to establish the affirmative defense by a preponderance of the evidence.
  - (e) If the administrative law judge issues findings of fact and conclusions of law stating there is sufficient evidence to demonstrate that the officer engaged in conduct that is in violation of

Subsection (1), the division shall present the finding and conclusions issued by the administrative law judge to the council.

- (f) The division shall notify the chief, sheriff, or administrative officer of the police agency which employs the involved peace officer of the investigation and shall provide any information or comments concerning the peace officer received from that agency regarding the peace officer to the council before a peace officer's certification may be suspended or revoked.
  - (g) If the administrative law judge finds that there is insufficient evidence to demonstrate that the officer is in violation of Subsection (1), the administrative law judge shall dismiss the adjudicative proceeding.
- (4) (a) The council shall review the findings of fact and conclusions of law and the information concerning the peace officer provided by the officer's employing agency and determine whether to suspend or revoke the officer's certification.
- (b) A member of the council shall recuse him or herself from consideration of an issue that is before the council if the council member:
- (i) has a personal bias for or against the officer;
  - (ii) has a substantial pecuniary interest in the outcome of the proceeding and may gain or lose some benefit from the outcome; or
  - (iii) employs, supervises, or works for the same law enforcement agency as the officer whose case is before the council.
- (5) (a) Termination of a peace officer, whether voluntary or involuntary, does not preclude suspension or revocation of a peace officer's certification by the council if the peace officer was terminated for any of the reasons under Subsection (1).
- (b) Employment by another agency, or reinstatement of a peace officer by the original employing agency after termination by that agency, whether the termination was voluntary or involuntary, does not preclude suspension or revocation of a peace officer's certification by the council if the peace officer was terminated for any of the reasons under Subsection (1).
- (6) A chief, sheriff, or administrative officer of a law enforcement agency who is made aware of an allegation against a peace officer employed by that agency that involves conduct in violation of Subsection (1) shall investigate the allegation and report to the division if the allegation is found to be true.

**53-6-208. Inactive certificates – Lapse of certificate – Reinstatement.**

- (1) (a) The certificate of a peace officer who has not been actively engaged in performing the duties as a certified and sworn peace officer for 18 consecutive months or more, but less than four consecutive years, is designated "inactive."
- (b) A peace officer whose certificate is inactive shall pass the certification examination and a physical fitness test before the certificate may be reissued or reinstated.
- (2) (a) The certificate of a peace officer who has not been actively engaged in performing the duties as a certified and sworn peace officer for four continuous years or more is designated as "lapsed."
- (b) A peace officer whose certificate is lapsed shall pass the basic training course at a certified academy, the certification examination, and a physical fitness test before the certificate may be reissued or reinstated.