

Rule 8 –Process for Seeking Exemption from Statutory Certification Restrictions

Effective May 15, 2021

- (a) The Board has promulgated these rules to ensure orderly and fair treatment of all POST approved training academy, renewal and provisional peace officer applicants. § 24-31-305, C.R.S., requires the POST Board to deny or revoke certification of any person with a disqualifying incident.
- (b) If an applicant anticipates prior to the denial of certification that they will be denied certification on the ground that the applicant has a disqualifying incident, the applicant must provide a fingerprint-based criminal history record check, by submitting fingerprints to the Colorado Bureau of Investigation and the U.S. Federal Bureau of Investigation, and request an exemption from denial of certification. When POST receives the criminal history and exemption request, it will process the exemption request using the process described in section (c) of this Rule 8.
- (c) To seek an exemption of a certification denial, or to request a reinstatement following a certification revocation, the applicant or the chief law enforcement officer, if any, of the potential employing agency, or the effected certificate holder, must submit a written petition to the Director, notifying of such disqualifying incident, and requesting that the Director to grant the applicant an exemption from certification denial, or to the affected certificate holder certificate reinstatement of the certificate. The petition must fully explain all relevant facts. Any person seeking an exemption from certificate denial or reinstatement of a certificate due to a disqualifying incident has the burden to establish:
 - (I) The exemption or reinstatement is consistent with the basic purposes and policies of § 24-31-305, et seq., C.R.S., including § 24-31-305(1.5)(b), if applicable;
 - (II) Mitigating circumstances exist that warrant exemption or reinstatement;
 - (III) Certification would be in the public interest; and
 - (IV) A true and accurate copy of the court record with disposition, law enforcement offense/case report from the disqualifying incident, and/or any other relevant documentation of a disqualifying incident, is attached to the petition. If the charging agency no longer has a copy of

the report, a letter from the agency verifying that fact should be attached.

- (d) The Director, at their discretion, may determine the merits of the request based upon the petitioner's written submissions, may request additional information, or may hold a meeting.
- (e) Any exemption granted under this rule shall be subject to such limitations or conditions as the Director or Board deems necessary in order to conform to the basic purposes and policies of applicable law.
- (f) The Director's decision may be appealed by following the process outlined in Rule 5 – Hearings.
- (g) In accordance with § 24-31-303(5)(a) and § 24-31-305(1.6)(a)(b), C.R.S., no person may, through an exemption or otherwise, serve as a certified peace officer, as defined in § 16-2.5-102 or § 16-2.5-110, C.R.S., without having first passed the required certification requirements and become certified.