

1. Part 6056 of 9 NYCRR is REPEALED and a new Part 6056 is added to read as follows:

PART 6056
CENTRAL STATE REGISTRY OF POLICE OFFICERS AND
PEACE OFFICERS

Sec.

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§ 6056.1 Purpose

The purpose of this Part is to set forth reporting and recordkeeping procedures to be followed by employers of police and peace officers and by the Division of Criminal Justice Services in maintaining the Central State Registry of Police Officers and Peace Officers, pursuant to *section 845 of the Executive Law*, and:

- (a) to provide for the establishment and maintenance of a permanent system of identification for each police and peace officer whose name is required by law to be entered in the Central State Registry of Police Officers and Peace Officers, pursuant to section 845(3) of such law;
- (b) to ensure the accuracy of the information contained in the Central State Registry of Police Officers and Peace Officers and the integrity of the registry as a public record;
- (c) to ensure that persons whose names are contained in the Central State Registry of Police Officers and Peace Officers are lawfully appointed; and
- (d) to enhance the ability of the Division of Criminal Justice Services to cooperate with the Division of State Police in making information in the Central State Registry of Police Officers and Peace Officers available for the purpose of verifying transactions involving firearms, pursuant to section 845(5) of such law.

§ 6056.2 Definitions.

As used in this Part, the following terms shall have the following meanings:

- (a) *Division* means the Division of Criminal Justice Services.
- (b) *Commissioner* means the Commissioner of the Division of Criminal Justice Services or their designee.
- (c) *Council or MPTC* shall mean the Municipal Police Training Council.
- (d) *Employer* means the chief executive officer of any State or local agency, unit of local government, State or local commission, public authority, or organization which employs police officers or peace officers.
- (e) *Police officer* means a person designated as such in *section 1.20(34) of the Criminal Procedure Law*.

(f) *Peace officer* means a person designated as such in *section 2.10 and 2.16 of the Criminal Procedure Law*.

(g) *Registry* means the Central State Registry of Police Officers and Peace Officers created by *section 845 of the Executive Law*.

(h) Removal for cause of a full-time or part-time police officer or peace officer means when an officer has an interruption in service as defined in paragraph (2) of this subdivision subsequent to and in connection with allegations of misconduct as defined in paragraph (1) of this subdivision which are known or should be known to the employer or any officer or employee of the employer agency or is being investigated by another agency or entity.

(1) Misconduct, includes:

(a) Criminal activity, whether criminally charged or prosecuted, regardless of where the act took place if said conduct would constitute an offense in New York, which is defined as:

- i. Any felony offense;
- ii. Any sex offense or sexually violent offense as defined in article 6C of the Correction Law;
- iii. All serious offenses as defined in subdivision 17 of section 265 of the Penal Law;
- iv. Crimes involving official misconduct and obstruction of public servants as defined in article 195 of the Penal Law; crimes involving bribery of a public servant as defined in article 200 of the Penal Law; crimes involving perjury as defined in article 210 of the Penal Law; offenses relating to judicial proceedings as defined in article 215 of the Penal Law;

- v. Crimes involving forgery as defined in article 170 of the Penal Law; crimes involving false written statements as defined in article 175 of the Penal Law; crimes involving fraud as defined in article 190 of the Penal Law; or
- vi. Crimes involving assault and menacing as defined in article 120 of the Penal Law; crimes involving obscenity as defined in article 235 of the Penal Law; crimes against public sensibilities as defined in article 245 of the Penal Law.

(b) Dishonesty which is defined as:

- i. False statements or conduct that subverts or attempts to subvert the
 - i. Employment application process; or
 - ii. State certification process defined in General Municipal Law §209-q.
- ii. Conduct involving dishonesty, fraud, deceit, or misrepresentation.

(c) Use of Excessive Force which is defined as:

- i. Force which violates the use of force policy required under Executive Law §840(4)(d)(3).

(d) Abuse which is defined as:

- i. Inappropriate conduct of a sexual nature, civil or criminal, regardless of adjudication;
- ii. Engaging in sexual conduct while on duty; or
- iii. Engaging in sexual conduct with someone detained or in the custody or control or under the supervision of a police or peace officer.

(e) Conflicts of interest which is defined as:

- i. Acts constituting gross negligence: where the police or peace officer's act or failure to act creates a danger or risk to persons, property, or to the efficient operation of the department, recognizable as a gross deviation from the standard of care that a reasonable police or peace officer would observe in a similar circumstance.
- ii. Acts constituting gross misconduct: in determining what constitutes "incompetence or gross misconduct," the Department may take into account practices generally followed in the profession, current teaching at public safety training facilities, and technical reports and literature relevant to the field of law enforcement.

(2) Interruption from service includes separation:

(a) pursuant to:

- i. a hearing held under section 75 of the Civil Service Law;
- ii. a collective bargaining agreement, or any general, special or local law, or charter provision in accordance with section 76 of the Civil Service Law; or
- iii. any other applicable law; or

(b) by an employee's resignation or retirement; or

(c) after an employee's waiver of any rights available pursuant to one of the processes described in subdivision (h)(2)(a) of this section.

(i) Removal during a probationary period means a probationary period not successfully completed due to conduct defined in paragraph (1) of subdivision (h) of this section.

§ 6056.3 Division responsibility.

- (a) The division shall maintain the Central State Registry of Police Officers and Peace Officers, pursuant to *section 845 of the Executive Law*. The division shall enter into such registry all information concerning police or peace officers required to be reported by employers by such law and in accordance with such rules and regulations as the commissioner may adopt to ensure the accuracy of such information and integrity of the registry as a public record.
- (b) The division shall not enter the name of any person in the registry if it has knowledge that such person is not lawfully appointed or eligible to be a police or peace officer, notwithstanding the submission of the name of such person by an employer for registration.
- (c) Where the division has cause to believe that any person whose name is submitted for entry in the registry or who is registered as a police or peace officer may not be eligible, the division shall proceed pursuant to section 6056.6 of this Part.
- (d) When it shall appear to the commissioner or the commissioner's designee that there is a material inaccuracy in an employer's reporting of the reason an officer ceased to serve pursuant to paragraph (b) of subdivision two of *section 845 of the Executive Law*, the division may proceed pursuant to section 6056.7.

§ 6056.4 Employer reporting requirements.

- (a) Each employer shall, in the form set forth in section 6056.5 of this Part, with respect to each police or peace officer employed by it, submit or cause to be submitted the following:
 - (1) name;
 - (2) social security number;

- (3) date of birth;
- (4) rank or title;
- (5) official station;
- (6) whether employed full-time or part-time; and
- (7) date of appointment or employment.

Employers shall inform police or peace officer employees that disclosure of an employee's social security number is for identification purposes only and is voluntary on the employee's part. A post-office box number shall not be accepted as an employee's permanent residence or domicile.

(b) The commissioner may require any employer to report the following additional information in such form as he may prescribe:

- (1) a certified copy of its articles of incorporation and bylaws relating to the authority and procedure for the employment, election, appointment and removal of officers, agents and employees having police or peace officer status;
- (2) minutes of meetings or proceedings concerning appointment and removal of police or peace officers; and
- (3) the street address of its principal place of business or official station and its telephone number.

(c) Each employer shall transmit, in a manner prescribed by the division, a list of all police or peace officers identified in the registry as employed by it. The employer shall examine such list to verify the completion of all statutorily required basic and in-service training for each police and peace officer it employs and delete therefrom the names of any persons no longer employed by it as police or peace officers or the names of police or peace officers who have failed to complete the statutorily required training within the required timeframes.

(d) Each employer shall, in the manner set forth in section 6056.5 (c) of this Part, with respect to each police or peace officer employed by it, immediately notify the division the effective date such officer ceases to serve and the reason for such, which shall include one of the following:

1. leave of absence;
2. resignation;
3. removal;
4. removal for cause as defined in 6056.2(h) of this Part;
5. removal during a probationary period as defined in 6056.2(i) of this Part

(e) A certificate of completion attesting to the fulfillment of the training requirements for police officers set forth in section 209-q(1) of the General Municipal Law and a certificate of completion attesting to the fulfillment of the training requirements for peace officers set forth in Criminal Procedure Law 2.30 shall immediately be deemed invalid when an officer ceases to serve pursuant to subdivision (d)(4) or (5) of this section, as authorized by General Municipal Law §209-q(1)(b-1) and (c) and Criminal Procedure Law 2.30(6).

(f) A certificate awarded under General Municipal Law §209-q(1)(b) may be permanently invalidated upon a police officer's removal for cause pursuant to subdivision (d)(4) or (5) of this section and that police officer may be ineligible for any future certification as authorized by General Municipal Law §209-q(1)(b-1).

(g) Upon inquiry from an employer, the division shall notify the employer of the reason a police or peace officer ceased to be previously employed as reported pursuant to subdivision (d) of this section.

§ 6056.5 Form and Manner of reports

Information reported in accordance with the provisions of section 6056.4 of this Part shall be reported as follows:

- (a) Each police officer employer shall complete and submit for each police officer employee the form entitled Police Officer Registry Entry Form available on request from the division. Such form shall be submitted to the division at the time of initial appointment.
- (b) Each peace officer employer shall complete and submit for each peace officer employee the form entitled "Peace Officer Registry Entry Form" available on request from the division. Such form shall be submitted to the division at the time of initial appointment.
- (c) Each employer shall immediately notify the division when an officer's registry information needs to be modified or deleted, including the effective date when such officer ceases to serve and the reason for such pursuant to section 6056.4(d). Such information shall be submitted utilizing the division's web-based records management system (or its successor).
- (d) Each employer shall notify the division no later than the 15th day of each January of the names of all police or peace officers who have ceased to be employed by it in the preceding twelve months.
- (e) The division may utilize the division's web-based records management system (or its successor) to provide each employer with a list of all police or peace officers identified in the registry as employed by it. The employer shall examine such list to verify the completion of all statutorily required basic and in-service training for each police and peace officer it employs and delete therefrom the names of any persons no longer employed by it as police or peace officers or the names of police or peace officers who have failed to complete the

statutorily required training within the required timeframes. Such information shall include the effective date such officer ceases to serve and the reason for such. Completion and submission of such a list shall be deemed compliance with the reporting requirements of subdivision (d) of this section.

- (f) The commissioner may approve a reporting format other than that set forth in subdivisions (a), (b), (c) or (d) of this section. Such approval shall be granted in writing.

§ 6056.6 Exclusion from registry.

(a) Where the division has cause to believe that any person whose name has been submitted for entry in the registry, or who is already registered as a police or peace officer, may be ineligible under any provision of article 2 or article 3 of the Public Officers Law or of article 1 or article 2 of the Criminal Procedure Law to be a police or peace officer, or prohibited from possessing firearms by federal law, the division shall notify the person's employer and the employer shall notify the division within 30 days that the person's name should be deleted from the registry.

(b) The division shall also notify the Division of State Police where questions concerning the lawful possession of firearms are involved and the Attorney General where questions concerning charitable corporations are involved.

(c) Where the division has cause to believe that a person who is registered as a police or peace officer has not completed the required training in the timeframe prescribed by law or regulation, the division may notify the person's employer and the employer shall notify the division within 30 days that the person's name should be deleted from the registry.

(d) Where the commissioner or the commissioner's designee determines there is a material inaccuracy in an employer's reporting of the reason an officer ceased to serve, the division shall correct the inaccuracy of such record on the Registry pursuant to section 6056.7.

§ 6056.7 Resolution of registry conflicts.

(a) When it shall appear to the commissioner or the commissioner's designee that there is a material inaccuracy in an employer's reporting of the reason an officer ceased to serve, as received by the commissioner pursuant to paragraph (b) of subdivision two of section 845 of the Executive Law, the commissioner shall attempt to resolve the perceived inaccuracy. If such attempt does not promptly resolve the discrepancy, the commissioner shall issue a notice to the employer and the officer who is the subject of such notification of the commissioner's intent to amend the inaccuracy of such record.

(1) Within 15 days of the receipt of said notice, the employer or the officer may forward to the commissioner a written request for a hearing to be held by the council to consider the accuracy of the agency's reporting of the reason an officer ceased to serve. The commissioner shall forward the request to the council. The failure of the employer or officer to timely request a hearing shall not preclude the commissioner from correcting said material inaccuracy.

(2) Such hearing shall be held at the next meeting of the council or subsequent meeting or special meeting of the council. At least 15 days before the next meeting, the council shall give to the employer or officer written notice by mail of the time and place of said meeting, wherein a hearing shall be held to consider the accuracy of said notification. The employer

or officer may be represented at the hearing by counsel and may produce any evidence to support their position.

(3) The hearing shall be conducted in accordance with the provisions of the State Administrative Procedure Act. Following deliberation, and in accordance with the open meetings law established by article 7 of the Public Officers Law, the council shall submit its recommendation to the commissioner. Following receipt of the council's recommendation, and within 90 days of the date of the hearing, the commissioner shall forward to the employer and the officer the decision and the reasons given for such decision. The commissioner makes the final decision, notwithstanding the council's recommendation.

§ 6056.8 Review.

- (a) Any person whose name is not accepted for entry in the registry, or whose name is removed therefrom, shall, on request, be provided the opportunity to review all information in the possession of the division on which such determination was based subject to the requirements and conditions set forth in Part 6050 of this Title, where applicable. Such person may present argument on issues of law and fact to the employer. The employer may then resubmit such person's name for registration, along with a statement of the reasons establishing such person's eligibility to be a police or peace officer.
- (b) When such person is removed from the registry pursuant to section 6056.4(d)(4) or (5) or pursuant to section 6056.7 of this Part, the division may submit such person's name to the national decertification index (or its successor).

§ 6056.9 Severability.

If any provision of this Part or the application thereof to any person or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Part or the application thereof to other persons or circumstances.