

Case Notes

Township's plan for mandatory random drug testing and annual medical examination programs for police officers fell within the administrative search exception to the Fourth Amendment warrant requirement. *Policemen's Benev. Ass'n of New Jersey, Local 318 v. Washington Tp. (Gloucester County), C.A.3 (N.J.)1988, 850 F.2d 133*, rehearing denied, certiorari denied 109 S.Ct. 1637, 490 U.S. 1004, 104 L.Ed.2d 153.

SUBCHAPTER 3. SCHOOL CERTIFICATION**13:1-3.1 Eligibility for certification**

A law enforcement agency, a combination of law enforcement agencies, an institution of higher learning or a recognized governmental entity is eligible to apply to the Commission for certification to operate a school.

13:1-3.2 Application for certification

An application for certification shall be submitted on a form prescribed by the Commission. The application shall require the applicant to demonstrate a need for the school and the availability of necessary resources to operate the school. The application shall conform with the Commission's requirements with respect to buildings, facilities, firearms ranges, equipment, personnel and insurance.

13:1-3.3 Notice of application

The applicant shall send a written notice, on a form prescribed by the Commission, to every law enforcement agency within the county wherein certification for a school is sought, indicating the applicant's intent to seek Commission certification to operate a school. A written notice shall be forwarded to the Commission stating that this section has been complied with.

13:1-3.4 Application review

The Commission staff shall review the application to determine if the applicant has demonstrated a need for the school, shall inspect the facility where the training is to be conducted and determine if the applicant has the necessary resources to operate the school. The Commission staff shall submit a written report to the Commission which shall contain a recommendation with respect to the request. The Commission shall approve or disapprove the certification request with any conditions it believes to be appropriate.

Amended by R.1993 d.325, effective July 6, 1993.
See: 25 N.J.R. 1336(a), 25 N.J.R. 2897(a).

13:1-3.5 Hearing on application

In the event a law enforcement agency interposes an objection with respect to school certification or there is more than one application for certification of a school within the same or adjoining counties the Commission staff may, for good cause, schedule a hearing by the Commission

on the matter after due notice to the affected parties. The Commission shall approve or disapprove the certification request with any conditions it believes to be appropriate.

Amended by R.1993 d.325, effective July 6, 1993.
See: 25 N.J.R. 1336(a), 25 N.J.R. 2897(a).

13:1-3.6 School recertification

Initial certification or recertification of a school by the Commission shall be for a period of three years. An application for recertification shall be the same as that provided in N.J.A.C. 13:1-3.2 through 3.5 together with a Commission staff determination that a school has complied with all Commission requirements.

Amended by R.1993 d.325, effective July 6, 1993.
See: 25 N.J.R. 1336(a), 25 N.J.R. 2897(a).

13:1-3.7 Suspension or revocation of certification

(a) School certification may be temporarily suspended or revoked by the Commission for:

1. Failure to comply with Commission requirements;
2. Failure to substantiate that the school reasonably serves the needs of the law enforcement agencies within the locale where the school is situated;
3. Failure to operate a basic course for a period exceeding 18 months;
4. Failure to maintain the school's facilities, including any buildings, equipment and firearms range in a reasonably clean, safe and efficient condition in accordance with Commission standards; or
5. Other good cause.

(b) In the event of suspension or revocation, the school director shall be notified in writing as to the reasons(s) for the action and may request a hearing before the Commission in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. The Commission may restore certification when the conditions for the suspension or revocation have been corrected.

SUBCHAPTER 4. INSTRUCTOR CERTIFICATION**13:1-4.1 Certification requirement**

All instructors participating in a course authorized by the Commission must be certified before they are permitted to teach except as set forth in this subchapter and except as provided for in an emergency as set forth in N.J.A.C. 13:1-7.2(a)14.

Amended by R.1993 d.325, effective July 6, 1993.
See: 25 N.J.R. 1336(a), 25 N.J.R. 2897(a).

13:1-4.2 Eligibility for certification

An individual who has completed two years of college, who has a minimum of three years of experience in his or her teaching specialty or career and who can demonstrate knowledge and/or skill in a subject contained in a Commission-approved curriculum is eligible for consideration for instructor certification. The Commission may waive the educational and/or work experience requirement for a compelling reason.

13:1-4.3 Certification process

An individual seeking instructor certification shall complete the Commission-prescribed application and shall have his or her law enforcement agency's endorsement where applicable. The school director shall interview the applicant and, if there is an intention to utilize the services of the individual, shall then endorse the application and forward it to the Commission. The Commission staff shall review the application and either approve or disapprove the request for certification as an instructor.

13:1-4.4 Types of certification

Police officers who have completed or will subsequently complete a Commission-recognized instructor training course shall be entitled to a police instructor certificate. Individuals other than police officers shall be entitled to a special instructor certificate.

13:1-4.5 Certification

(a) Initial instructor certifications and renewals thereof shall expire on December 31 of the third year after the granting or renewal of the certifications. As a condition of recertification, an instructor must teach at least once during the prior certification period.

(b) The Commission may impose conditions with respect to any certification and may withdraw certification at any time, or deny renewal, for good cause.

(c) An instructor denied certification or renewal, or whose certification was withdrawn by the Commission, may request a hearing before the Commission in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Amended by R.1989 d.485, effective September 18, 1989.

See: 21 N.J.R. 1647(b), 21 N.J.R. 3019(a).

In (a): added "instructor" describing certifications and changed "granting and renewal" year to "third year." Added text: "... after the ... each year."

Amended by R.1993 d.325, effective July 6, 1993.

See: 25 N.J.R. 1336(a), 25 N.J.R. 2897(a).

13:1-4.6 Certification requirements for instructors of certain subjects

(a) Applicants who seek certification to instruct in certain subjects must be certified as an instructor and also comply with the following requirements:

1. An individual seeking certification as a firearms instructor must successfully complete a Commission-recognized firearms instructor course. Under the immediate supervision of a school's range master, the individual must successfully:

i. Demonstrate knowledge of the established range safety rules;

ii. Identify the major parts of those firearms which will be used in the training program;

iii. Demonstrate the ability to handle those firearms which the Commission shall designate safely under conditions such as the following:

(1) Loading and unloading;

(2) Using loading devices;

(3) Clearing ammunition and weapon malfunctions; and

(4) Cleaning and maintaining weapons properly;

iv. Demonstrate the knowledge and skills required to teach the techniques of marksmanship and be able to identify the reasons that may be leading a trainee to possible failure; and

v. Score no less than 95 in the Commission-required firearms course.

2. In order to be eligible for recertification, firearms instructors must annually satisfy the range master of their ability to perform the requirements as set forth in (a)1i through iv above and comply with an appropriate firearms requalification program.

3. An individual seeking certification as a Range Master must be certified by the Commission as a firearms instructor and:

i. Possess a minimum of five years active experience as a certified firearms instructor at a Commission-approved school. The Commission may waive this requirement for compelling reasons;

ii. Have served in the capacity of a certified firearms instructor under the supervision of a certified range master during at least six basic firearms courses at a Commission-approved school; and

iii. Be recommended to the Commission by both the school director and the range master at the school where the applicant will serve that the applicant is competent to perform the duties and responsibilities of range master.

4. An individual seeking certification as a radar instructor at a Commission approved school or at a law enforcement agency must meet the following requirements:

- i. Prior completion of a course for radar operators, which shall have included a minimum of eight hours of training consisting of four hours of classroom instruction and four hours of supervised practice training;
- ii. Two years of experience as a radar operator, with a minimum of 80 hours of hands-on experience; and
- iii. Successful completion of a Commission-recognized course for radar instructors.

5. An individual seeking certification as a physical conditioning instructor at a Commission-approved school must successfully complete a Commission-approved course in physical conditioning and training instruction. The course will provide for the implementation of the Police Training Commission Physical Conditioning Training Program and include Principles of Exercise Physiology or substantially equivalent educational materials.

6. An individual seeking certification as a vehicle operations instructor at a Commission-approved school must successfully complete a Commission-approved Vehicle Operations Instructors Course or one containing substantially equivalent instruction in driver training.

Amended by R.1989 d.260, effective May 15, 1989.
See: 21 N.J.R. 695(a), 21 N.J.R. 1365(a).

In (a)1ii, replaced "the handguns and shotguns" with "those firearms which will be" used in the training program.

In (a)1iii, replaced "handguns and shotguns" with "those firearms which the Commission shall designate" regarding ability to handle firearms safely.

Amended by R.1990 d.477, effective October 1, 1990.
See: 22 N.J.R. 1435(a), 22 N.J.R. 3151(a).

Required that all physical conditioning instructors be certified.
Amended by R.1995 d.584, effective November 20, 1995.
See: 27 N.J.R. 1521(a), 27 N.J.R. 4728(c).

Case Notes

No proof that failure in firearms qualification course was result of instructors' interference; trainee dismissed. *Glover v. Passaic County Police Academy*. 93 N.J.A.R.2d (PTC) 43.

13:1-4.7 Appeal of certification denial

An individual seeking instructor certification who is denied certification as a result of the Commission staff review may appeal this decision to the Commission.

SUBCHAPTER 5. LAW ENFORCEMENT OFFICER CERTIFICATION

13:1-5.1 Certification requirements; basic courses

(a) A trainee shall be eligible for certification when the school director affirms that:

1. The trainee has achieved the minimum requirements set forth in the Basic Course for Police Officers, the Basic Course for Investigators, the Basic Course for Special Law Enforcement Officers, the Basic Course for

Corrections Officers, the Basic Course for Juvenile Detention Officers, the Basic Course for County Park Rangers or the Basic Course for Juvenile Residential and Day Program Youth Workers and has demonstrated an acceptable degree of proficiency in the performance objectives contained therein;

2. The trainee has participated in no less than 90 percent of the total instructional time assigned to those performance objectives designated by the Commission; and

3. The trainee has successfully completed the training required by the Commission to be conducted by the employing law enforcement agency.

Amended by R.1989 d.260, effective May 15, 1989.
See: 21 N.J.R. 695(a), 21 N.J.R. 1365(a).

In (a)1, added "the Basic Course for Corrections Officers or the Basic Course for Juvenile Detention Officers."
Amended by R.1993 d.325, effective July 6, 1993.
See: 25 N.J.R. 1336(a), 25 N.J.R. 2897(a).

Case Notes

Testing positive for cocaine; termination from Corrections Officer Training Academy. *Pobuta v. Corrections Officer Training Academy*, 94 N.J.A.R.2d (PTC) 6.

Failure to adequately participate in physical conditioning drills required of county corrections officers warranted dismissal from academy. *Bisordi v. Bergen County Police and Fire Academy*, 94 N.J.A.R.2d (PTC) 1.

Medical unfitness; removal of correction officer trainee. *Abreu v. Passaic County Sheriff's Dept.*, 93 N.J.A.R.2d (CSV) 377.

Removal of police academy trainee; exercise-induced asthma rendered her medically unfit. *Abreu v. Passaic County Police Academy*, 93 N.J.A.R.2d (PTC) 27.

Inability of trainee to complete physical training course warranted dismissal. *Kaufman v. Passaic County Police Academy*, 92 N.J.A.R.2d (PTC) 18.

13:1-5.2 Certification requirements; other courses

A trainee shall be eligible for certification in other courses when the School Director affirms that the trainee has successfully completed a curriculum and course requirements approved by the Commission.

13:1-5.3 Revocation of certification

The Commission may revoke the certification conferred upon a trainee if the Commission ascertains that the certification would not have been issued had certain facts concerning inappropriate conduct of the trainee been known to the Commission at the time the certification was issued. The Commission may also revoke a certification which was issued as the result of administrative error. The individual shall be notified in writing as to the reasons for revocation and shall be required to return the certification to the Commission. The individual may request a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

SUBCHAPTER 6. CURRICULUM

13:1-6.1 Curriculum and courses

A curriculum promulgated by the Commission shall be the required curriculum at a Commission-approved school. The Commission curricula are incorporated herein by reference and are available from the Commission at the Richard J. Hughes Justice Complex, CN-085, Trenton, New Jersey 08625. An approved school shall conduct basic courses and those other courses as shall be required by the Commission. In addition to the required curriculum, a school may also offer, with Commission staff approval, additional components of a basic course.

Amended by R.1993 d.325, effective July 6, 1993.
See: 25 N.J.R. 1336(a), 25 N.J.R. 2897(a).

SUBCHAPTER 7. SCHOOL ADMINISTRATION

13:1-7.1 School directors

Each Commission-approved school shall be under the immediate control of an individual who is designated for the purposes of these rules by the title "school director". The school director shall perform general administrative functions and shall be responsible for the day-to-day operations of the school. The Commission shall have the authority, after consultation with the agency responsible for operating a school, to remove a school director from all duties and responsibilities for the administrative and day-to-day operations of a Commission-approved school for a violation of Commission rules, policies or directives. Notice of removal shall be in writing and shall be served upon the school director and the agency responsible for operating the school. A school director suspended or dismissed by the Commission may request a hearing before the Commission in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, and shall, where applicable, also retain any rights that may be available under the laws pertaining to the State Department of Personnel.

13:1-7.2 Operating entity responsibilities

(a) The law enforcement agency, combination of law enforcement agencies, institution of higher learning, or recognized governmental entity certified to operate a school is vested with the power, responsibility and duty:

1. To comply with all Commission rules, standards and directives governing the operation of the school;
2. To devise a curriculum, in conjunction with appropriate law enforcement officials and such other advisors that may be appropriate, that conforms to Commission requirements and submit same to the Commission staff for approval;

3. To promulgate, subsequent to Commission approval, and enforce rules governing the conduct of trainees and the use of the school's facilities. Each trainee shall be furnished a printed copy of the rules at the commencement of the course and a copy of the rules shall be posted in a conspicuous place on the school bulletin board and remain there for the duration of the course. These rules shall explicitly state which rule(s), the violation of which, may result in the trainee's suspension or dismissal from school;

4. To verify that the requirements for admission of an individual into the school have been complied with;

5. To maintain appropriate records for each trainee which shall include, but not be limited to, attendance, written examination grades, firearms qualification scores, behavior and counselling;

6. To report immediately the unauthorized absence of a trainee to an appropriate official in the trainee's law enforcement agency;

7. To report immediately the illness or injury of a trainee or an instructor to an appropriate official in the trainee's or instructor's law enforcement agency and to the Commission staff;

8. To dismiss a trainee who has demonstrated that he or she will be ineligible for Commission certification, for unacceptable behavior or for other good cause. In such cases:

- i. The trainee shall be informed immediately of the reason(s) for the action;

- ii. As soon as possible, but in no event later than the second business day thereafter, a written statement of the reason(s) for the action shall be provided to the trainee, the appropriate official in the trainee's law enforcement agency and the Commission;

- iii. The dismissal of a trainee for misconduct may take effect immediately when, in the opinion of the school director, the continued presence of the trainee would be disruptive of or detrimental to the conduct of the class;

- iv. Upon the written request of a trainee, the Commission Chairman may, after consultation with the school director and for good cause, permit a trainee to remain in school pending the appeal of a dismissal pursuant to N.J.A.C. 13:1-9;

- v. A trainee who is dismissed from a school for misconduct shall not receive credit for any subjects completed up to the time of dismissal;

9. To inform the Commission whether a trainee has complied with the certification requirements set forth herein;

10. To submit records and forms to the Commission as required in accordance with a written schedule prepared by the Commission;
11. To maintain, for a period of three years, a master copy of each written examination conducted by the school, together with the correct answers. The individual written examination papers of trainees who are academic failures and the targets of those who are firearms failures are also to be maintained for a period of three years;
12. To forward to the Commission, on the appropriate form, any request for the certification of an individual seeking to become a certified instructor;
13. To verify that all instructors have Commission certification. In an emergency or compelling circumstances, a non-certified instructor may be used. In such event the Commission staff shall be notified as soon as possible and prior to any teaching by such individual and informed of the reason for this exception;
14. To designate a range master for the school who shall be qualified in accordance with Commission standards;
15. To maintain and safeguard all Commission equipment on loan to the school and to notify the Commission immediately if any of the equipment is damaged or missing;
16. To provide the Commission with class time for purposes of conducting orientation sessions for trainees and with bulletin board space for the posting of appropriate Commission rules and notices;
17. To charge a reasonable fee for each trainee enrolled at the school;
18. To appoint a school director and such assistants as may be required to implement this subchapter;
19. To conduct drug screening of all trainees so as to provide for the safety and welfare of all trainees, instructors and other school personnel in accordance with the following procedures:
 - i. All trainees will be requested to sign a notice and acknowledgment in a form prescribed by the Commission consenting to the sampling and testing of urine during the course. This notice and acknowledgment will include notification that a positive confirmation of the presence of illegal drugs in the trainee's urine will result in dismissal from the school;
 - ii. Although criminal proceedings would not ordinarily be justified in the case of a positive drug test obtained as a result of mandatory, unannounced testing, the school director may report positive drug test results to the county prosecutor in appropriate circumstances;
 - iii. The Commission shall designate the facility for both the initial screening and confirmation analysis of urine;
 - iv. Prior to the submission of a urine sample, the trainee will complete a medical questionnaire in a form prescribed by the Commission which shall clearly describe all drugs, both prescription and non-prescription, ingested during the past 30 days;
 - v. Trainees will be required to submit urine samples during the course;
 - vi. A staff member of the school will serve as the official monitor and, as such, will be responsible for ensuring that all required forms, such as waivers, laboratory forms and medical questionnaires, have been thoroughly and accurately completed by the trainee. Prior to the submission of the sample, both the staff member and the trainee will inspect the specimen bottle for indications of pre-void tampering;
 - vii. Generally, the trainee will submit the urine sample in the presence of the official monitor. On those rare occasions where the trainee is not able to provide a sample in the presence of the official monitor, the school director may choose to permit the trainee to provide a sample without the witness, so long as the trainee removes his or her clothing in the presence of the official monitor prior to entering a room where he or she has no access to water or any other additive;
 - viii. The official monitor shall be of the same sex as the trainee being tested. If there is no member of the same sex available from within the school to serve as the official monitor, the operating entity may request that a member of the prosecutor's office or another law enforcement agency serve as the official monitor;
 - ix. Urine samples will be processed in accordance with accepted chain of evidence procedures. Throughout the urine acquisition process, the identity of the trainee shall be preserved through social security number. No forms forwarded to the laboratory will contain the trainee's name;
 - x. The trainee will complete the information requested on the specimen bottle label and any related agency or laboratory forms;
 - xi. After the official monitor has inspected the information for accuracy, the trainee will void approximately 50 milliliters of urine into the specimen bottle. The specimen will be handled and processed in accordance with procedures approved by the Commission;
 - xii. After ascertaining that all forms have been completed accurately and after serving as a witness to the void, the official monitor shall take possession of the sample and place it in a controlled access refrigerated storage area until it is delivered to the designated

laboratory. This delivery shall occur within one laboratory working day of acquisition;

xiii. The school director shall request that the designated laboratory provide notification of any urinalysis resulting in a positive test result. A sample shall be considered positive for the presence of drugs only when resulting from a confirmatory test procedure. A written laboratory report shall be obtained for all positive samples. All trainees who are found positive for drugs and an appropriate official in the trainee's law enforcement agency will be orally notified by the school director of the positive confirmation result as soon after notification from the laboratory as possible. A copy of the laboratory report shall be provided to the trainee by the school director if requested;

xiv. The school director shall dismiss any trainee who produces a positive test result for illegal drug usage. Such dismissal shall constitute a dismissal for misconduct; and

xv. The Commission may, as circumstances warrant, notify the central registry maintained by the Division of State Police of a trainee's positive test result for illegal drug usage.

20. To employ aides, with the written approval of the Commission, to assist instructors, provided that no aide shall act in any instructional capacity;

21. To immediately report to the Commission any allegation of misconduct, improper instruction or other actions of an instructor or school staff; and

22. To cooperate with the Commission in any investigation or inquiry.

Amended by R.1991 d.63, effective February 19, 1991.

See: 22 N.J.R. 2256(b), 23 N.J.R. 607(a).

Changes at (a)20., provided for less specific procedures "approved by Commission."

Amended by R.1993 d.325, effective July 6, 1993.

See: 25 N.J.R. 1336(a), 25 N.J.R. 2897(a).

Administrative Correction.

See: 25 N.J.R. 4106(a).

Case Notes

Apprehension of Police Training Commission about possible consequences of an injury to police trainee who had limited vision in his right eye did not constitute good cause for trainee's dismissal. *Greenwood v. State Police Training Center*, 127 N.J. 500, 606 A.2d 336 (1992).

Police Training Commission did not have good cause to dismiss trainee who had limited vision in his right eye from police training program. *Greenwood v. State Police Training Center*, 127 N.J. 500, 606 A.2d 336 (1992).

Failure to follow urine testing guidelines; positive drug result not basis for trainee dismissal. *Oslovich v. Essex County Police Training Academy*. 93 N.J.A.R.2d (PTC) 48.

No proof that failure in firearms qualification course was result of instructors' interference; trainee dismissed. *Glover v. Passaic County Police Academy*. 93 N.J.A.R.2d (PTC) 43.

Failure to achieve required score on Use of Force examination; trainee dismissed. *Spivey v. Paterson Police Academy*. 93 N.J.A.R.2d (PTC) 40.

Firearms test failure not result of gender discrimination; trainee dismissed. *Sierchio v. Essex County Police Training Academy*. 93 N.J.A.R.2d (PTC) 37.

Failure to fully participate in physical conditioning program; dismissal from county police and fire academy warranted. *Schmeltz v. Bergen County Police and Fire Academy*. 93 N.J.A.R.2d (PTC) 15.

Record established chain-of-custody of urine sample testing positive for drug; juvenile detention officer dismissed from correction officers training academy. *Dye v. Correction Officers Training Academy*. 93 N.J.A.R.2d (PTC) 4.

Handgun qualification course failed; recruit dismissed. *Tillander v. Monmouth County Police Academy*. 93 N.J.A.R.2d (PTC) 1.

Reinstatement of police officer to police training academy program was appropriate remedy. *Geib v. Township of Jefferson Police Department*, 92 N.J.A.R.2d (CSV) 233.

Positive drug test and insubordination; dismissal from police academy and college police officer position. *Holmes v. Passaic County Police Academy and William Paterson College*, 92 N.J.A.R.2d (PTC) 13.

Positive drug test; dismissal of recruit/candidate; no jurisdiction to determine time period recruit/candidate barred from law enforcement positions. *Miranda v. Jersey City Police Academy*, 92 N.J.A.R.2d (PTC) 9.

Positive drug test; trainee dismissed. *Jackson v. Correction Officers Training Academy*, 92 N.J.A.R.2d (PTC) 6.

Trainee's failure to refund money deposited by classmates for class dinner constituted conduct unbecoming; suspension. *Rutledge v. Ocean County Police Academy*, 92 N.J.A.R.2d (PTC) 1.

SUBCHAPTER 8. RESPONSIBILITIES OF LAW ENFORCEMENT AGENCIES AND OTHER AGENCIES

13:1-8.1 Investigation of police officers prior to acceptance into a basic course

(a) Prior to the acceptance of a police officer into a basic course, the employing law enforcement agency shall:

1. Fingerprint the individual and forward copies of the fingerprints to the New Jersey State Police and the Federal Bureau of Investigation in order to ascertain if the individual has been convicted of an offense which would disqualify an appointment of a police officer. The results obtained from the State Police and the Federal Bureau of Investigation shall be made known and available to the appropriate appointing authority;

2. Investigate the individual to ascertain if he or she is eligible for permanent appointment in a law enforcement position. The results of this investigation shall be made known and available to the appropriate appointing authority;