

CRIMINAL JUSTICE TRAINING REFERENCE MANUAL

MINIMUM QUALIFICATIONS WAIVER

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WAIVER OF MINIMUM QUALIFICATIONS

In compliance with the statutory requirements of Section 15.2-1705, the Department of Criminal Justice Services will be guided by the following criteria when acting upon waiver requests. In considering requests for waiver of any minimum qualification, the Department reserves the right to place a restriction on any waiver authorized.

Citizenship

A. A waiver of the citizenship requirement may be granted when an individual seeking employment as a law enforcement officer as defined by Section 9-169(9) of the Code of Virginia, as amended, a court security/process services officer with a sheriff's office or as a jailor with a sheriff's office has made application for United States citizenship and is active in the naturalization process. The Department of Criminal Justice Services reserves the right to establish the time limits for the completion of the citizenship requirement and may extend such time period based upon written request of the chief of police, sheriff or agency administrator. Requests for extension of the time required for completion of the citizenship process should be submitted prior to the expiration of any time limit established in previous waiver responses.

B. A waiver of the citizenship requirement may be granted upon written request of a sheriff when an individual employed or seeking employment in a sheriff's office for the position of jailor or custodial officer and the individual does not desire to gain United States citizenship provided the individual is a resident legal alien. Any such request must be submitted and endorsed by the sheriff. Any waiver granted under this provision shall become invalid upon losing the status as a legal resident alien, change in primary function or termination of employment from the agency to whom the waiver was authorized. In requesting waiver of the citizenship requirement, the sheriff shall restrict any job performance to only those duties normally performed by jail personnel.

Background Investigation

A waiver of the fingerprint-based criminal history inquiry to both the Central Criminal Records Exchange and the Federal Bureau of Investigation shall not be granted to a chief of police, police officers, deputy sheriffs or law enforcement officers. Each employing agency should decide the extent to which it will conduct investigations on applicants from other agencies who have prior experience.

Education

The intent of the legislature in passing Section 15.2-1705 and the agreement among law enforcement officers that high school education or equivalent is a reasonable standard and the availability of the means for meeting the standard in Virginia dictate that waivers in this category should be given only under the most extenuating circumstances. Education waiver requests should be fully documented explaining why it is believed the circumstances warrant a waiver. Also, the basis for approval of the waiver should be documented and made part of the record. Waivers may be appropriate in such circumstances as where an individual was employed as a chief of police, police officer or deputy sheriff before the effective date of the legislation, left such employment, and is seeking to be reemployed. The ability to read, write and comprehend material pertinent to the duties to be undertaken are to be demonstrated by having satisfactorily completed basic or in-service training during the previous employment. Length of previous service and length of time absent from employment as a chief of police, police officer or deputy sheriff will be taken into consideration when such requests is being processed.

As a general rule, requests for waiver from educational requirements for an individual being appointed to the position of chief of police, police officer or deputy sheriff for the first time will not be granted. However, this will not preclude a waiver if circumstances can be documented which would justify favorable action. Under such

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circumstances, the waiver will be temporary and conditional upon satisfactory completion of a basic training course designed for the office to which appointment is being sought. Such training must be completed within twelve months of the date of employment.

Driver's License

A waiver to possession of a valid driver license may be granted when an individual seeking employment as a chief of police, police officer, deputy sheriff :

Is certified by the employing police department or sheriff's office as being employed in a capacity where a driver license will not be required, and

Does not have a criminal or motor vehicle record in this state or any other state which would preclude the applicant from obtaining or possessing a drivers license.

Physical Examination

The Department will not grant waivers of physical examinations. The extent of such examination is wholly within the purview of the employing agency.

Age

The Department will not grant a waiver of the age requirement.

Felony Conviction

An applicant shall not have been convicted of a felony or pled guilty or no contest to a felony or any offense that would have been a felony if committed in Virginia. The Department will not, as a general rule, consider a waiver of this requirement. If extenuating circumstances exist, consideration may be given on a case by case basis with proper justification.

Drug Testing

The Department will not grant waivers from drug testing. The drug testing requirement is wholly within the purview of the employing agency.