



Vermont Criminal Justice Council

RULES COMMITTEE: Minutes

May 10, 2023

May 10, 2023
3:00 PM
Teams Meeting

Members in Attendance:

Cassandra Burdyslaw
Christopher Louras
Brian Searles
Bill Sorrell
Sheriff Mark Anderson

Members Absent:

Other Attendees:

Kim McManus – Attorney, Vermont Criminal Justice Council
Heather Simons – Executive Director, Vermont Criminal Justice Council
Christopher Brickell – Deputy Director, Vermont Criminal Justice Council

Call to order:

Burdyslaw called the meeting to order at 3:01 PM

Motion to Approve the Minutes from the March 28, 2023 Committee Meeting:

Anderson proposed that the minutes be edited to reflect that he abstained from vote to approve the March 15, 2023 minutes. Sorrell moved to approve the minutes with Anderson's proposed edit. Anderson seconded. The minutes were approved. Burdyslaw will edit the March 28, 2023 minutes.

Discussion of proposed rules:

1. Waivers

McManus stated that the Administrative Procedure Act requires specific criteria for routine waivers. McManus asked the Committee if Draft Rule 8 needs to be more detailed to satisfy the APA requirement. Searles stated that training waivers are routine and Draft Rule 25, which addresses training waivers, is more specific than Draft Rule 8.

Anderson stated that some waivers may become more common, such as waivers to prevent candidates from being excluded from basic training if a polygraph examination identifies behavior related to controlled substances as written in Draft Rule 14(f)(ii)(4) and (5). McManus stated that the Council could add more details for those waivers in the future if they become routine.



Vermont Criminal Justice Council

RULES COMMITTEE: Minutes

May 10, 2023

Burdyslaw stated that the Committee could address the issue Anderson raised by removing Draft Rule subsections 14(f)(ii)(4) and (5) and moving that language to a new subsection 14(f)(iv)) that could state:

iv. A candidate may be excluded from basic training if any of the following conduct is identified during a polygraph examination or during the background and character check:

1. Distribution of controlled substances;
2. Under the influence of controlled substances, not lawfully possessed, within a year prior to the proposed training session entry date.

Anderson stated that subsections could be left in the same place, but the Committee could consider adding a timeframe for how recently events related to the subsections had to occur in order to exclude candidates from basic training. Sorrell stated that the Committee could choose a timeframe and highlight that number for Council consideration. Searles stated that keeping the language simple by not adding a timeframe would work and stated that choosing a timeframe would be controversial. The Committee agreed.

Burdyslaw will update Draft Rule 14.

2. Council Hearing for Category B First Offense

McManus suggested adding the following language to Draft Rule 29:

- b. When the Professional Sub-Committee makes a finding that a law enforcement officer has committed a Category B, first offense, the Council shall:
 - i. Notify the officer of the Council's finding within 30 days, in writing;
 - ii. Inform the officer that a Category B first offense finding by the Council may be used as evidence before the Council if the officer has a future hearing before the Council based on a Category B, second or subsequent offense;
 - iii. Provide the officer the opportunity to provide additional evidence and/or testimony before a Council-designated committee to contest the finding of the Category B, first offense, violation; and
 - iv. Inform the officer that if they do not request a hearing to contest the Category B, first offense, finding within 10 days of receiving his/her violation letter, or after the Council-designated committee affirms the Professional Regulation subcommittee's finding, then they waive the right to contest the Category B, first offense, violation findings.

Brickell stated that some of the references to Council in Draft Rule 29(b) should refer to the Committee instead of the Council, updating the proposed language to be:



Vermont Criminal Justice Council

RULES COMMITTEE: Minutes

May 10, 2023

- b. When the Professional Regulation Committee makes a finding that a law enforcement officer has committed a Category B, first offense, the Committee shall:
 - i. Notify the officer of the Committee's finding within 30 days, in writing;
 - ii. Inform the officer that a Category B first offense finding by the Committee may be used as evidence before the Council if the officer has a future hearing before the Council based on a Category B, second or subsequent offense;
 - iii. Provide the officer the opportunity to provide additional evidence and/or testimony before a Council-designated committee to contest the finding of the Category B, first offense, violation; and
 - iv. Inform the officer that if they do not request a hearing to contest the Category B, first offense, finding within 10 days of receiving his/her violation letter, or after the Council-designated committee affirms the Professional Regulation Committee's finding, then they waive the right to contest the Category B, first offense, violation findings.

The Committee agreed to add the proposed language. Burdyslaw will add the language.

The Committee discussed whether to remove Draft Rule 29(c) because the law stating that the Council shall take no action to sanction a law enforcement officer who is alleged to have committed a first offense of Category B conduct that is not listed in 20 V.S.A. § 2407 (a) may change. McManus suggested keeping the language until the law changes, at which point the Council can make that change.

3. Proxies

Louras stated that the Committee may want to consider limiting the use of proxies by gubernatorial appointees. Sorrell and Anderson stated that gubernatorial appointees may want to be able to use a proxy to vote at a meeting which they cannot attend. Anderson stated that an example from another organization is that someone may have a proxy at no more than three consecutive meetings.

Next meeting:

May 17, 2023 at 9:00 AM

Potential Future Agenda Items:

Discussion of proposed changes by Heather Simons

Motion to Adjourn:



Vermont Criminal Justice Council

RULES COMMITTEE: Minutes

May 10, 2023

Sorrell moved to adjourn the meeting. Anderson seconded the motion. The motion passed unanimously.

The meeting adjourned at 3:59 PM.