

## Chapter LES 2

### RECRUITMENT QUALIFICATIONS

LES 2.01 Minimum qualifications for recruitment.

LES 2.02 Pre-employment drug testing.

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(1) Before an individual may commence employment on a probationary, temporary, part-time or full-time basis as a law enforcement, tribal law enforcement, jail or secure detention officer, that individual must have met recruit qualifications established by the board. The minimum qualifications for recruitment shall be:

(a) The applicant shall possess a valid Wisconsin driver's license or such other valid operator's permit recognized by the Wisconsin department of transportation as authorizing operation of a motor vehicle in Wisconsin prior to completion of the preparatory training course. The results of a check of the issuing agency's motor vehicle files shall constitute evidence of driver's status.

(b) The applicant shall have attained a minimum age of 18 years. A birth or naturalization certificate shall serve as evidence of applicant's date of birth.

(c) The applicant shall not have been convicted of any federal felony or of any offense which if committed in Wisconsin could be punished as a felony unless the applicant has been granted an absolute and unconditional pardon.

(d) The applicant shall possess a Wisconsin high school diploma or a diploma issued by an out of state high school accredited by an appropriate agency of the state or shall have passed the general education development diploma test or any other test recommended by the Wisconsin department of public instruction as indicating high school diploma level.

(e) An applicant for employment as a law enforcement or tribal law enforcement officer shall possess either a 2 year associate degree from a Wisconsin technical college system district or its accredited equivalent from another state or a minimum of 60 fully accredited college level credits. An applicant who has not met this standard at the time of employment shall meet this standard as a requirement of recertification by the board at the end of his or her fifth year of employment as a law enforcement or tribal law enforcement officer. At the request of an applicant and upon documentation of experiences that have enhanced his or her writing, problem solving and other communication skills, the board may waive a maximum of 30 college level credits. This educational standard shall apply to applicants first employed as law enforcement or tribal law enforcement officers on or after February 1, 1993.

(f) The applicant shall be of good character as determined from a written report containing the results of the following:

1. The fingerprinting of the applicant and with a search of local, state and national fingerprint records.
2. A background investigation conducted by or on behalf of an employer. The employer shall certify in a document subscribed and sworn to by the affiant that a reasonably appropriate background investigation has been conducted, what persons or agency conducted the investigation and where written results of the investigation are maintained on file.
3. Such other investigation as may be deemed necessary to

provide a basis of judgment on the applicant's loyalty to the United States or to detect conditions which adversely affect performance of one's duty as a law enforcement, tribal law enforcement, jail or secure detention officer.

(g) The applicant shall be free from any physical, emotional or mental condition which might adversely affect performance of duties as a law enforcement, tribal law enforcement, jail or secure detention officer.

1. The applicant shall complete a personal medical history, a copy of which is to be submitted to the examining physician.

2. The examination shall be by a Wisconsin licensed physician who shall provide a written report on the results of the examination.

(h) The applicant shall submit to and complete with satisfactory results, an oral interview to be conducted by the employing authority or its representative or representatives. "Satisfactory results" shall be determined from the contents of a written rating by the interviewer expressing an opinion concerning the applicant's appearance, personality, and ability to communicate as observed during the interview.

(2) The employing authority shall supply the training and standards bureau with copies of the documentation and reports concerning the above listed qualifications. Personal history, rating and report forms currently used by the employing authority are acceptable for this purpose. If such forms are not available, the bureau will supply forms for this purpose upon request.

(3) If the applicant is employed on a probationary or temporary basis, the bureau shall be immediately informed. The bureau shall maintain a permanent file on each applicant.

(4) The foregoing are minimum qualifications. Higher qualifications are strongly recommended where the employing authority is in a position to require them.

**History:** Cr. Register, September, 1970, No. 177, eff. 10-1-70; am. (1) (c), Register, April, 1973, No. 208, eff. 5-1-73; am. (f) 1. f., Register, January, 1974, No. 217, eff. 2-1-74; am. (1) (intro. par.) and (1) (b), Register, October, 1974, No. 226, eff. 11-1-74; am. (1) (d), Register, January, 1975, No. 229, eff. 2-1-75; r. (1) (a), Register, April, 1975, No. 232, eff. 5-1-75; am. (1) (intro.), renum. (1) (b) to (h) to be (1) (a) to (g) and am. (1) (a), (b), (d) to (g), Register, October, 1984, No. 346, eff. 11-1-84; correction in (1) (f) made under s. 13.93 (2m) (b) 5., Stats., Register, October, 1984, No. 346; renum. (1) (e) to (g) to be (1) (f) to (h), cr. (1) (e), Register, January, 1993, No. 445, eff. 2-1-93; am. (1) (d), Register, August, 1993, No. 452, eff. 11-29-93; am. (1) (intro.), (e) and (g) (intro.); r. and recr. (1) (f); Register, November, 1997, No. 503, eff. 12-1-97.

**LES 2.02 Pre-employment drug testing. (1) TESTING REQUIREMENT.** (a) The applicant shall submit to a drug test for the presence of the following controlled substances or classes of controlled substances or their metabolites:

1. Amphetamines
2. Cannabis or cannabinoids
3. Opiates
4. Cocaine
5. Phencyclidine (PCP)

(b) The drug test shall be accomplished through analysis of a urine specimen from the applicant. Other specimens of blood, breath, saliva or hair may be used when minimum standards

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equivalent with those for urine specimens have been established by the United States department of health and human services, substance abuse and mental health services administration. The specimen collected may only be used for either of the following:

1. Test required under par. (a).
2. Tests for other controlled substances as determined by the prospective employing agency.

(c) The costs of the urine sample collection and analysis shall be borne by the prospective employing agency.

**(2) NOTICE OF TESTING REQUIREMENT.** Notice of the date, time, and place of the drug test sample collection shall be given to the applicant no more than 3 days prior to the date of the scheduled collection. The notice shall inform the applicant that appearance for the drug test specimen collection at the stated date, time, and place is mandatory and that failure to appear without just cause to the satisfaction of the prospective employing agency or refusal to provide the specimen shall result in denial of certification by the board. The notice shall inform the applicant that a positive test result for which the applicant cannot provide a legitimate explanation to the satisfaction of the board shall result in the applicant being denied employment and being denied certification by the board. The notice shall state that the test results may be disclosed only:

- (a) To the board.
- (b) To the prospective employing agency or any other prospective employing agency.
- (c) To the applicant or applicant's designee.
- (d) To the prospective employer's designee or the board's designee, if disclosed for a purpose related to or in conjunction with an applicant's challenge to a positive test result, or an administrative action, court proceeding, or other proceeding in which the applicant challenges a denial of employment or certification.
- (e) By lawful order of a court.
- (f) As otherwise required by law.

**(3) SPECIMEN COLLECTION.** The urine specimen shall be collected at a collection site designated by the approved laboratory specified by the prospective employing agency for the drug testing.

(a) The applicant providing the specimen shall be positively identified by the collection site person by use of a valid photo driver's license, valid passport, or valid military identification card. If proper identification is not available, the specimen shall not be collected without contacting the prospective employing agency to make other arrangements for positive identification.

(b) The specimen shall be obtained from the applicant in a manner that complies with laboratory and collection site specifications adopted by the board and published in the policy and procedures manual of the board.

**(4) CONSEQUENCES OF POSITIVE TEST RESULT, FAILURE TO APPEAR OR REFUSAL.** A positive test result for which the applicant cannot provide an explanation to the satisfaction of the board, refusal to provide the urine specimen for the drug test, or failure to appear to provide the urine specimen at the scheduled date, time, and place without just cause to the satisfaction of the prospective employing agency shall result in the applicant being denied certification by the board.

**(5) TESTING PROCEDURE.** The drug test required by sub. (1) shall be performed by an approved laboratory chosen by the prospective employing agency. Specifications for approved laboratories shall be published in the policy and procedures manual of the board.

(a) Tests to be performed. The testing procedure shall consist of:

1. An initial screening test
2. A confirmatory test when there is a positive initial test result.

(b) *Controlled substances.* The initial screening test shall be done for the presence of amphetamines, cannabis or cannabinoids, opiates, cocaine and phencyclidine (PCP) or their metabolites in tested urine in levels at or above threshold detection levels established by the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration.

(c) *Confirmation tests.* The confirmation test shall be done for the presence of amphetamines, cannabis or cannabinoids (Delta-9-tetrahydrocannabinol-9-carboxylic acid), opiates (morphine, codeine), cocaine (Benz-oylcegonine) and phencyclidine (PCP) in tested urine in levels at or above threshold detection levels established by the United States department of health and human services, substance abuse and mental health services administration. Each applicant who receives a positive confirmation test shall be allowed to submit information in explanation of test results.

**(6) NOTICE OF TEST RESULTS; APPLICANT RIGHTS.** The testing laboratory shall forward any positive test results to the board as well as to the prospective employing agency.

(a) Within 10 working days after receipt of the test result report from the testing laboratory, the prospective employing agency shall inform the applicant in writing of a positive test result.

(b) If an applicant wishes to challenge a positive test result, the applicant shall, within 5 working days after receiving notice of a positive test result, submit in writing to the prospective employing agency and to the board information that the applicant believes provides a legitimate explanation for the positive test result. The applicant shall provide to the board written waivers of confidentiality for information the board believes is necessary for it to determine if there is a legitimate explanation for the positive test result.

(c) 1. Within 20 working days after receipt of the information in par. (b), the board shall determine if there is an acceptable legitimate explanation for the applicant's positive test result.

2. The applicant, at the applicant's expense, may select from a list of physicians approved by the board, a physician who is not the applicant's personal physician, to review the test documentation and applicant's explanatory information. The physician shall provide a written report to the board rendering an opinion and supporting rationale as to whether or not there is a legitimate explanation for the positive test result. The board shall consider this report in making its final determination.

3. The applicant shall cooperate in any investigation by the board or the selected physician needed to reach their respective determinations. Failure to cooperate shall be deemed a withdrawal of the applicant's challenge to the positive test result.

4. The board shall immediately forward a written report of its findings and determination to the applicant and to the prospective employing agency.

5. The board shall approve a list of physicians qualified and acceptable to review drug analysis results. The list shall be published in the policy and procedures manual of the board and updated as required.

(d) The board may approve alternative procedures by prospective employing agencies to assure applicant rights.

**(7) DRUG TEST RESULTS; CONFIDENTIALITY.** (a) The prospective employing agency shall ensure that only personnel

necessary to the employment decision have access to drug test records.

(b) All records pertaining to drug tests performed pursuant to sub. (1) shall remain confidential, except that the records may be released to:

1. To the board.
2. To the prospective employing agency or any other prospective employing agency.
3. To the applicant or applicant's designee.
4. To the prospective employing agency's designee, or the board's designee for a purpose related to or in conjunction with

an applicant's challenge to a positive test result or an administrative action, court proceeding, or other proceeding in which the applicant challenges a denial of employment or board certification.

5. By lawful order of a court.

6. As otherwise required by law.

(c) An applicant may provide written permission for any other release of records pertaining to the drug tests.

(d) The prospective employing agency shall provide copies of all necessary documentation and reports under this section to the board.

**History:** Cr. Register, August, 1993, No. 452, eff. 11-29-93.