

**State of California
Office of Administrative Law**

In re:
**Commission on Peace Officer Standards and
Training**

Regulatory Action:

Title 11, California Code of Regulations

Amend sections: 1953, 1954, 1955

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2023-0427-03

OAL Matter Type: Regular (S)

This action by the Commission on Peace Officer Standards and Training (POST) mandates a specific format for the background investigation narrative report and incorporates by reference a medical suitability declaration form (POST 2-363) and a psychological suitability declaration form (POST 2-364).

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 10/1/2023.

Date: June 8, 2023



Anna Thomas
Attorney

For: Kenneth J. Pogue
Director

Original: Manuel Alvarez, Jr., Executive
Director

Copy: Melani Singley

TEXT OF PROPOSED REGULATION ACTION
Peace Officer Selection Standards
Commission Regulations 1953, 1954, and 1955

§ 1953. Peace Officer Background Investigation.

(a) Government Code Mandate

Every peace officer candidate shall be the subject of a thorough background investigation to verify good moral character [Government Code section 1031(d)] and the absence of past behavior indicative of unsuitability to perform the duties of a peace officer, including any acts requiring denial of employment pursuant to the California Law Enforcement Accountability Reform (CLEAR) Act (Penal Code section 13680, et seq.).

[Regulation 1953 (a)(1)-(d)(2) continued...]

(e) Areas of Investigation

[Regulation 1953 (e)(1)-(e)(6) continued...]

(7) Relatives/Personal/[Secondary](#) References Checks

(A) Every peace officer candidate shall be the subject of reference checks through contacts and interviews with relatives, including former spouses, and personal references listed on the candidate's personal history statement. Additional references (e.g., secondary references), provided by the initial contacts, shall also be contacted and interviewed to determine whether the candidate has exhibited behavior incompatible with the position sought. Sufficient information shall be collected and reviewed to determine candidate suitability.

(B) Proof of reference checks shall be documented by written information showing that relatives and personal references identified by the candidate and additional references provided by the initial contacts (e.g., secondary references) were interviewed. Documentation shall include the identity of each individual contacted, if the contact is an initial or secondary reference, the contact's relationship to the candidate, and an account of the information provided by the contact. All requests for information shall be documented.

[Regulation 1953(e)(8) – (f)(2) continued...]

(g) Documentation and Reporting

(1) Background Narrative Report

The background investigator shall summarize the background investigation results in a narrative report that includes sufficient information for the reviewing authority to extend, as appropriate, a conditional offer of employment. [The report shall include sections that summarize relevant Background Investigation Dimensions and include any findings of behaviors, traits and/or attributes that may be relevant to bias per the Bias Assessment Framework \[subsection 1953\(b\)\]. The report shall identify the data sources reviewed for the findings, regardless of weight given.](#)

TEXT OF PROPOSED REGULATION ACTION
Peace Officer Selection Standards
Commission Regulations 1953, 1954, and 1955

The report shall include narrative information in order of, and consistent with, the required areas of investigation [subsection 1953(e)] using the following headings:

- (1) Employment Eligibility
- (2) Age Verification
- (3) Criminal and Other Qualification Records Checks – Local, State, and National
- (4) Driving Record Check
- (5) Education Verification
- (6) Employment History Checks
- (7) Relatives/Personal/Secondary References Checks
- (8) Dissolution of Marriage Check
- (9) Neighborhood Checks
- (10) Military History Check
- (11) Credit Records Check
- (12) Social Media Check

~~The report shall reference the Background Investigation Dimensions and include any findings of behaviors, traits and/or attributes that may be relevant to bias per the Bias Assessment Framework [subsection 1953(b)]. The report shall identify the data sources reviewed for the findings, regardless of weight given, and include relevant supporting documentation, including documentation obtained through the social media search [subsection 1953(e)(12)].~~

The report, along with all supporting documentation obtained during the course of the background investigation, including relevant documentation of bias-related findings and documentation obtained through the social media search [subsection 1953(e)(12)], shall be included in the candidate's background investigation file. The supporting documents shall be originals or true, current and accurate copies as attested to by the background investigator. The background investigation file shall be made available during POST compliance inspections.

[Regulation 1953(g)(2) continued]

NOTE: Authority cited: Sections 1029, 1030, 1031, 1031.2, 1031.3 and 1031.4, Government Code; and Sections 13503, 13506 and 13510, Penal Code. Reference: Sections 1029, 1030, 1031, 1031.2, 1031.3, 1031.4 and 12900 et seq., Government Code; Section 12500, Vehicle Code; Sections 13510, 13680, 13681, 13682, 13683 and 29805, Penal Code; and Title 18 Section 922(d)(9), US Code.

TEXT OF PROPOSED REGULATION ACTION
Peace Officer Selection Standards
Commission Regulations 1953, 1954, and 1955

§ 1954. Peace Officer Medical Evaluation.

(a) Government Code Mandate/Evaluator Requirements Every peace officer candidate shall be evaluated by a licensed physician and surgeon (hereinafter referred to as “physician”) to determine if the candidate is free from any physical (i.e., medical) condition that might adversely affect the ability to exercise peace officer powers [Government Code section 1031(f)]. The physician shall conduct the evaluation on behalf of and for the benefit of the employing department.

[Regulation 1954(b)-(d)(3) continued]

(e) Medical Evaluation Reporting Requirements

(1) The evaluating physician shall make a determination of the candidate’s medical suitability, which includes whether the candidate is free from any physical condition that might adversely affect their ability to exercise the powers of a peace officer, and provide the department with a completed and signed POST form 2-363 (10/2023), Mmedical Ssuitability Ddeclaration, herein incorporated by reference, that shall include the following information:

~~(A) The physician’s printed name, contact information and medical license number,~~

~~(B) The candidate’s name,~~

~~(C) The date the evaluation was completed, and~~

~~(D) A statement, signed by the physician, affirming that the candidate was evaluated in accordance with Commission Regulation 1954. The statement shall include a determination of the candidate’s medical suitability for exercising the powers of a peace officer.~~ Prior to appointment as a peace officer, the candidate must be determined to be medically suitable.

(2) The department shall maintain the medical suitability declaration in the candidate’s background investigation file; the declaration shall be available to POST during compliance inspections.

[Regulation 1954(e)(3)-(f)(2) continued]

NOTE: Authority cited: Section 1031, Government Code; and Sections 13503, 13506 and 13510, Penal Code. Reference: Section 56.11, Civil Code; Section 1031, Government Code; and Section 13510, Penal Code.

TEXT OF PROPOSED REGULATION ACTION
Peace Officer Selection Standards
Commission Regulations 1953, 1954, and 1955

§ 1955. Peace Officer Psychological Evaluation.

(a) Government Code Mandate/Evaluator Requirements

Every peace officer candidate shall be evaluated to determine if the candidate is free from any emotional or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer [Government Code section 1031(f)], and to otherwise ensure that the candidate is capable of withstanding the psychological demands of the position.

[Regulation 1955(a)(1) – (e)(5) continued]

(f) Psychological Evaluation Reporting Requirements

(1) Data from all sources of information shall be considered; the evaluator's determination shall not be based on one single data source unless clinically justified.

(2) The evaluator shall provide the department with their findings from the bias assessment [subsection 1955(d)(3)] and identify the data sources relied upon for their findings, including information obtained through the background investigation [Commission Regulation 1953(g)(3)].

(3) The evaluator shall make a determination of the candidate's psychological suitability, which includes whether the candidate is free from any emotional or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer and is capable of withstanding the psychological demands of the position, and shall provide the department with a completed and signed POST form 2-364 (10/2023), Psychological Suitability Declaration, herein incorporated by reference, ~~that shall include the following information:~~

~~(A) The evaluator's printed name, contact information and professional license number,~~

~~(B) The name of the candidate,~~

~~(C) The date the evaluation was completed, and~~

~~(D) A statement, signed by the evaluator, affirming that the candidate was evaluated in accordance with Commission Regulation 1955. The statement shall include a determination of the candidate's psychological suitability for exercising the powers of a peace officer.~~ Prior to appointment as a peace officer, the candidate must be determined to be psychologically suitable.

(4) The department shall maintain the psychological suitability declaration in the candidate's background investigation file; the declaration shall be available to POST during compliance inspections.

[Regulation 1955(f)(5) – (g)(2) continued]

NOTE: Authority cited: Sections 1031 and 1031.3, Government Code; and Sections 13503, 13506 and 13510, Penal Code. Reference: Section 56.11, Civil Code; Sections 1031 and 1031.3, Government Code; and Section 13510, Penal Code.

HIRING DEPARTMENT

ADDRESS	CITY	STATE	ZIP

Suitability Declaration - to be maintained in the background investigation file

Instructions to the Physician:

- This form is to be completed and submitted to the hiring department.
- The hiring department will maintain this Medical Suitability Declaration page in the individual's background investigation file. **Do not include medical information on this page.**

Medical Suitability Declaration

CANDIDATE'S NAME	BIRTH DATE	LAST 4 DIGITS OF SSN

On _____, I completed a pre-employment medical screening evaluation
[DATE OF EVALUATION]
on the above-named peace officer candidate, in accordance with POST Commission [Regulation 1954](#). The evaluation was conducted using the medical screening procedures and evaluation criteria outlined in subsection 1954(c) and the required sources of information identified in subsection 1954(d), including:

1. Job information provided by the hiring department,
2. Medical history statement completed by the candidate, and
3. Relevant medical records provided by the candidate and/or medical health professional, if warranted and obtainable.

Based on the results and findings of that evaluation:

- I certify** that the candidate is free from any physical condition that might adversely affect their ability to exercise the powers of a peace officer and is medically suitable to perform the peace officer duties and responsibilities as defined and provided by the hiring department either without any accommodations, or provided that the specified work restrictions, limitations, or reasonable accommodations can be implemented. *(Describe any work restrictions, limitations, or reasonable accommodation requirements on a supplemental medical information page. The supplemental page is to be maintained as a confidential medical record, separate from the background investigation file.)*
- I cannot certify** that the candidate is medically suitable to perform the peace officer duties and responsibilities as defined and provided by the hiring department.

Physician's Signature ► _____

PHYSICIAN'S PRINTED NAME	MEDICAL LICENSE NUMBER		
EMAIL ADDRESS	PHONE NUMBER		
ADDRESS	CITY	STATE	ZIP

HIRING DEPARTMENT

ADDRESS	CITY	STATE	ZIP

Suitability Declaration - to be maintained in the background investigation file

Instructions to the Psychologist:

- This form is to be completed and submitted to the hiring department.
- The hiring department will maintain this Psychological Suitability Declaration page in the individual's background investigation file. **Do not include medical information on this page.**

Psychological Suitability Declaration

CANDIDATE'S NAME	BIRTH DATE	LAST 4 DIGITS OF SSN

On _____, I completed a pre-employment psychological screening
[DATE OF EVALUATION]

evaluation of the above-named peace officer candidate to determine if the candidate is free from any emotional or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer and is capable of withstanding the psychological demands of the position, in accordance with POST Commission Regulation 1955.

The evaluation was conducted using the psychological screening procedures and evaluation criteria outlined in subsection 1955(d) and the required sources of information identified in subsection 1955(e), as follows:

1. Job information provided by the hiring department,
2. Written assessments, including one designed and validated to identify patterns of abnormal behavior and one designed and validated to assess normal behavior,
3. Personal history information, including all relevant information gathered from the background investigation [Commission Regulation 1953(g)(3)],
4. A psychological interview administered subsequent to a review of the written assessment results and personal history information, and
5. A review of relevant psychological and medical records, as provided by the candidate and/or medical health professional, if warranted and obtainable.

Based on the results and findings of the evaluation, the candidate is:

Psychologically suitable to perform the peace officer duties and responsibilities as defined and provided by the hiring department either without any accommodations, or provided that the specified work restrictions, limitations, or reasonable accommodations can be implemented. *(Describe any work restrictions, limitations, or reasonable accommodation requirements on a supplemental medical information page. The supplemental page is to be maintained as a confidential medical record, separate from the background investigation file.)*

Not psychologically suitable to perform the peace officer duties and responsibilities as defined and provided by the hiring department.

Psychologist's Signature ► _____

PRINTED NAME OF PSYCHOLOGIST	LICENSE NUMBER		
EMAIL ADDRESS	PHONE NUMBER		
ADDRESS	CITY	STATE	ZIP