

**State of California
Office of Administrative Law**

In re:
Commission on Peace Officer Standards and Training

Regulatory Action:

Title 11, California Code of Regulations

Adopt sections:

Amend sections: 1208

Repeal sections:

NOTICE OF APPROVAL OF REGULATORY ACTION

Government Code Section 11349.3

OAL Matter Number: 2023-1218-02

OAL Matter Type: Regular Resubmittal (SR)

This rulemaking action by the Commission on Peace Officer Standards and Training amends regulations relating to the temporary suspension of peace officer certification.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 2/1/2024.

Date: February 1, 2024



Kevin D. Hull
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Manuel Alvarez, Jr., Executive
Director

Copy: Michelle Weiler

TEXT OF PROPOSED REGULATORY ACTION
Commission Regulation 1208

§ 1208. Temporary Suspension of Certification.

(a) Following an ~~Order of Immediate Temporary Suspension~~ pursuant to Penal Code section 13510.8(d), the division shall take the following steps:

(1) Notify the involved peace officer and agency head in writing. The notification shall specify the basis for the Executive Director's determination.

(A) The peace officer shall be provided written notification that they have the right to respond to the executive director in the event they assert the Order of Immediate Temporary Suspension should be withdrawn. Such a response will be considered only to the extent the response is based upon evidence that the grounds for an immediate temporary suspension (ITS), as authorized by Penal Code section 13510.8(d) and as set forth in the order of immediate temporary suspension, do not exist. Such response must be served upon the Commission within 14 calendar days of the date of mailing of the Order of Immediate Temporary Suspension, either by personal delivery on Commission headquarters, or by mail, postmarked no later than 14 calendar days of the date of mailing of the Order of Temporary Suspension to the peace officer.

(B) Upon receipt of the response provided for in (a)(1)(A), the executive director will consider the facts, evidence, and argument in the response, and shall withdraw the ITS if it is determined that continuing the suspension is no longer in the best interest of the health, safety, or welfare of the public. If an order of withdrawal is not issued by the executive director within 15 calendar days of the date of service of the response pursuant to (a)(1)(A), the response will be deemed denied.

(2) In the event the immediate temporary suspension was based upon an arrest or indictment for a crime described in Government Code section 1029, the peace officer may, at any time during the pendency of an immediate temporary suspension, notify the executive director of the decision of the applicable prosecutorial body to not file charges within Government Code section 1029, and request that those facts be taken into consideration. The notification to the executive director shall include documentation of the prosecutorial body's decision not to file charges. Upon receipt of the notification, the executive director will consider the facts, evidence, and arguments provided in the request and shall withdraw the ITS if it is determined that continuing the suspension is no longer in the best interest of the health, safety, or welfare of the public. Such a notification must be served upon the Commission either by personal delivery on Commission headquarters or by mail. If an order of withdrawal is not issued by the executive director within 15 calendar days of the date of either personal service to the Commission or date of mailing of the notification, the request will be deemed denied.

TEXT OF PROPOSED REGULATORY ACTION
Commission Regulation 1208

(3) The eCommission shall schedule all further required proceedings in accordance with the Bagley-Keene Open Meeting Act.

Note: Authority cited: Sections 1350~~32~~³², 13506, 13510.8, Penal Code. Reference: ~~Sections 1029, Government Code~~; Section 13510.8, Penal Code.