

IC 5-2-1-12.5 Revocation of diploma, certificate, or badge; immunity for report of cause for revocation; investigation of cause for revocation; hearing on cause for revocation; application for reinstatement

Sec. 12.5. (a) The board may revoke, suspend, modify, or restrict a diploma, certificate, or document showing compliance and qualification issued by the board, or any authority to act as a law enforcement officer in the state, for any of the following reasons:

- (1) The officer has been convicted of:
 - (A) a felony; or
 - (B) a misdemeanor that would cause a reasonable person to believe that the officer:
 - (i) is dangerous or violent; or
 - (ii) has a demonstrated propensity to violate the law.
- (2) The officer has been found not guilty of a felony by reason of mental disease or defect.
- (3) The officer's diploma, certificate, or document showing compliance and qualification issued by the board, or by another person, was issued in error or was issued on the basis of information later determined to be false.
- (4) The officer has engaged in conduct that would be a criminal offense described in subdivision (1)(A) through (1)(B), even if the officer was not charged with the criminal offense.

(b) If, after affording the law enforcement officer all due process rights, the chief executive officer or the hiring or appointing authority disciplines a law enforcement officer for a violation described in subsection (a), the chief executive officer or hiring or appointing authority shall report the discipline to the executive director to determine whether proceedings under this section are warranted. The chief executive officer or the hiring or appointing authority shall report the discipline within thirty (30) days of the imposition of the discipline.

(c) If a law enforcement officer resigns or retires from the department or agency before a finding and order has been issued concerning a violation of subsection (a), the chief executive officer or the hiring or appointing authority shall report the resignation to the executive director to determine whether proceedings under this section are warranted. A report under this subsection must be made within thirty (30) days of the resignation or retirement of the law enforcement officer.

(d) A person who knows of cause for the revocation of an officer's diploma, certificate, or document showing compliance and qualification shall inform the officer's hiring or appointing authority or the executive director. A person who makes a good faith report of cause for revocation of an officer's diploma, certificate, or document showing compliance and qualification is immune from civil liability.

(e) If the chief executive officer or hiring or appointing authority receives a report of cause for revocation concerning an officer within the chief executive officer's agency, the chief executive officer shall:

- (1) cause the internal affairs division (or a similar unit) of the agency to investigate the report without unnecessary delay; or
- (2) request that the investigation be conducted by a law enforcement agency other than the law enforcement agency to which the subject of the investigation belongs.

The chief executive officer or hiring or appointing authority shall report any finding and order for discipline for a cause described in subsection (a) to the executive director.

(f) If a hiring or appointing authority receives a report of cause for revocation concerning the chief executive officer, the hiring or appointing authority shall cause an appropriate investigative agency to investigate without unnecessary delay.

(g) If the executive director receives a report or otherwise learns of cause for revocation concerning a law enforcement officer or chief executive officer, the board shall consider the report and direct the subject officer's chief executive officer or hiring or appointing authority to conduct an investigation. The chief executive officer or hiring or appointing authority shall cause an investigation to be conducted by an appropriate investigative agency without unnecessary delay.

(h) When a chief executive officer or hiring or appointing authority completes an investigation of cause for revocation, the chief executive officer or hiring or appointing authority shall forward a complete report of its investigation, findings, and recommendations, if any, to the executive director. The chief executive officer or hiring or appointing authority shall also forward to the executive director a description of any administrative or disciplinary action taken as a result of the investigation not later than sixty (60) days after the chief executive officer or hiring or appointing authority takes administrative or disciplinary action.

(i) Upon receipt of a final report of an investigation under this section, the executive director shall review and make recommendations to the board. If the recommendation is to revoke or suspend the law enforcement officer's authority to act as a law enforcement officer, then all of the following apply:

(1) The executive director shall cause written charges to be prepared and served upon the law enforcement officer by personal service, certified mail, or other delivery service for which a receipt for delivery is generated.

(2) The law enforcement officer may:

(A) voluntarily relinquish the officer's diploma, certificate, or document showing compliance and qualification issued by the board, or any authority to act as a law enforcement officer, by completing, before a notary public, a relinquishment form provided by the board; or

(B) demand an evidentiary hearing on the allegations.

(3) The:

(A) law enforcement officer has the right to be represented by an attorney at the sole expense of the law enforcement officer; and

(B) board may be represented by the general counsel for the Indiana law enforcement academy (or a designee), the attorney general, or a private attorney.

All attorneys shall file an appearance with the board.

(4) If the law enforcement officer demands an evidentiary hearing, the board chairperson shall appoint a subcommittee to conduct the evidentiary hearing. The subcommittee shall be composed of three (3) law enforcement officers who are members of the board and two (2) members of the board who are not currently law enforcement officers. The subcommittee shall provide findings of fact and conclusions of law, and the board shall render the final decision and impose the revocation or suspension, if warranted.

(5) Not later than ten (10) days after its appointment, the subcommittee shall conduct a prehearing conference with the parties. The prehearing conference may be conducted electronically if every party may fully participate. The prehearing conference shall address:

(A) the narrowing of issues and defenses;

(B) discovery matters;

(C) stipulations that may be reached;

(D) names and subject matter of all witnesses;

(E) whether summary judgment may be requested;

(F) the need for legal briefs on any issue;

(G) the date, time, location, and probable length of the evidentiary hearing; and

(H) any other pertinent issues.

The subcommittee shall issue an order summarizing the proceedings and its ruling on the issues.

(6) Each party is entitled to engage in reasonable discovery as approved by the subcommittee and consistent with the Indiana rules of trial procedure.

(7) The evidentiary hearing shall permit opening statements by each party, direct and cross-examination of witnesses, introduction of evidence, and closing arguments.

(8) The evidentiary hearing shall be recorded.

(9) The subcommittee may request each party to submit proposed findings of fact and conclusions of law, and shall render a determination of the issues not later than thirty (30) days from receipt of the last submission of proposed findings of fact and conclusions of law.

(j) When the subcommittee makes its findings of fact and conclusions of law, it shall serve a copy on the law enforcement officer by personal service, certified mail, or other delivery service for which a receipt for delivery is generated, and shall further notify the law enforcement officer of the date, time, and location of the board meeting. At the meeting the board shall determine whether to accept the recommendation of the subcommittee.

(k) A law enforcement officer may seek judicial review of an adverse determination of the board under [IC 4-21.5-5](#).

(l) The fact that the law enforcement officer:

- (1) has been disciplined; or
- (2) may be disciplined;

by the hiring or appointing authority for the same conduct is not a bar to any action by the board under this section.

(m) The board shall include the name of any law enforcement officer who has been decertified on the Internet web site of the Indiana law enforcement academy, and shall transmit the officer's name for inclusion on the decertification index maintained by the International Association of Directors of Law Enforcement Standards and Training.

(n) A law enforcement officer who has been decertified may apply to the board for reinstatement. The application for reinstatement must:

- (1) be in writing and signed by the law enforcement officer subject to the penalties for perjury; and
- (2) demonstrate that reinstatement is appropriate, that the applicant poses no danger to the public, and that the applicant can perform as a law enforcement officer according to the board's standards.

By filing a petition for reinstatement the applicant agrees to submit to any investigation, testing, analysis, or other procedure or protocol determined by the board or the executive director. The board may direct the executive director to investigate the application for reinstatement and make a recommendation to the board. The executive director shall review the application for reinstatement and all supporting evidence, including expunged criminal convictions, and shall make a recommendation to the board. The board shall consider the application and recommendation of the executive director and shall notify the applicant of its determination in person or by certified mail or other delivery service for which a receipt for delivery is generated.

(o) The board shall adopt rules under [IC 4-22-2](#) to implement this section.

As added by P.L.52-2005, SEC.9. Amended by P.L.205-2019, SEC.17; P.L.12-2021, SEC.3.