

Procedures for Commission Review of Class B Misdemeanor Offenses Waiver Request

Policy

It is the intent of the Commission to provide a licensing system that complies with the requirements of the Occupations Code, Chapter 1701 and Commission Rules. Commission Rules 215.15 [Enrollment Standards and Training Credit] and 217.1 [Minimum Standards for Initial Licensure] permit an agency administrator to request that the 10 year waiting period subsequent to conviction of a Class B Misdemeanor conviction or deferred adjudication from a case involving a Class B misdemeanor be reduced to as few as 5 years in the awarding of a license. The procedures describe how these requests are handled.

Affects: All Personnel and Requesting Law Enforcement Chief Administrators

01. Requests

An agency chief administrator writes a letter requesting that a specific individual be allowed to be licensed without waiting the full ten years, as described in rules 215.15 and 217.1. The letter is addressed to the Executive Director with supporting documentation. The letter should include a full and complete description of the offense, an applicant statement, and a statement from the chief administrator as to why and how the public interest would be served in granting a license at an earlier date. The agency chief administrator should state whether there are available openings in the agency, whether a critical need currently exists, and whether the applicant is otherwise qualified. The agency administrator is required to include a commitment to hire the applicant as a full time paid regular officer, if the Commission grants the waiver and the applicant successfully completes the remaining licensing requirements. The request with supporting documentation is made at least 45 days prior to a regularly scheduled Commission meeting to be considered at the meeting.

02. Supporting Documentation

The supporting documentation is submitted to include:

1. background investigation report [see Commission definitions for background investigation],
2. official disposition documents for all arrests,
3. all related offense reports,
4. statement from victim [if there was a victim],
5. letters of recommendation,
6. criminal history reports,
7. probation records,
8. written commitment to employ individual as described in 01. above, and
9. other relevant documents concerning the individual.

03. Mitigating Circumstances

The Commission considers mitigating circumstances in making their decision. Examples of mitigating circumstances may include:

1. age at time of offense,
2. lack of other arrests,
3. accomplishments,
4. employment record,

5. school record,
6. time since the offense,
7. relationship of the offense to the license sought,
8. type of license sought,
9. whether the case involved violence or threat of violence,
10. whether the offense involved a crime of moral turpitude,
11. whether the offense was pled down from a more serious charge,
12. whether deferred adjudication was awarded,
13. a statement from the victim that the victim does not object, if there is a victim and there was any bodily injury, theft or substantial property damage involved, and
14. other relevant information.

04. Staff Actions

- 1 The staff compiles the information to determine if all pertinent documents have been provided.
2. If there is anything missing, the chief administrator is notified, in writing, and given an opportunity to provide the missing information.
3. The request is scheduled for a Commission meeting.
4. The chief administrator is notified of the Commission meeting, in writing, informed to attend or send a designee to present the petition, and to have the applicant to accompany the chief administrator or designee to the Commission meeting. The person for whom the petition is filed does not present the petition, but should be available at the Commission meeting to respond to questions of Commissioners.
5. The Commissioners are provided with a packet of information including the supporting documents, the request information, a brief synopsis of the information, and a brief report of staff activity.
6. The synopsis may contain additional information in opposition to the request, if authorized by the Executive Director.

05. Commission Actions

The Commissioners consider the information presented along with any arguments, pro or con, make a decision, and take formal action.

06. Subsequent Actions

If the Commission approves admission to the academy, it is not necessary to make a subsequent request when the academy is completed for licensing, if it is with the same agency.

Notes: The Commissioners established:

1. There is only one appeal allowed per individual.
2. If a license is issued, the individual licensee keeps license, even, if the licensee leaves the agency.
3. This action becomes a permanent part of the individual licensee's record.