

JULY 2022

TOOLKIT FOR PUBLIC COMMENTS

This toolkit provides information and resources for members of the public interested in communicating their support for recent administrative rules changes at the Minnesota Board of Peace Officer Standards and Training (POST Board).



IMPROVING POLICE ACCOUNTABILITY IN MINNESOTA

Minnesotans now have an opportunity to improve the systems that hold law enforcement officers accountable for protecting and serving their communities.

The Minnesota Justice Research Center (MNJRC) is a nonprofit organization that works to drive meaningful change in Minnesota's criminal legal system through rigorous and community-centered research, education, and policy development. Much of our recent work seeks to identify ways to strengthen the systems that hold law enforcement officers accountable for protecting and serving their communities.

Last month, the MNJRC released our report "[Accountability in Policing: The Unexplored Power of the POST Board](#)." This report, which followed a year of conversations with communities across Minnesota, examines the systems that hold police officers accountable and investigates ways to improve those systems. The report identifies the Minnesota Board of Peace Officer Standards and Training (POST Board) as a powerful tool in the work to build the community's trust in policing through accountability.

The POST Board is a state-level agency that sets the requirements and standards for licensing, training, and conduct of law enforcement officers. For the past two years, the POST Board has been working diligently to strengthen accountability by reviewing and recommending changes to the administrative rules that set requirements and standards of conduct for law enforcement officers across the state.

In March 2022, a diverse set of stakeholders representing law enforcement, community groups, academics and researchers, and government reached agreement on rules changes involving background investigations, psychological screenings, minimum selection standards, standards of conduct, and required agency policies. The group agreed on all but five changes.

The POST Board is now interested in hearing from members of the public about whether to adopt the rules changes. Adopting the changes will lead to greater accountability by strengthening the requirements for who can be licensed as an officer in Minnesota and the standards that they must adhere to in order to remain an officer.

This toolkit provides information and resources for members of the public interested in submitting public comments on the POST Board's proposed rules changes. It provides detailed information on how to submit comments, as well as specific information on three of the five rules changes that failed to generate consensus.

Affirming these changes will help our state make strides in strengthening the systems that hold police officers accountable to those they serve.

THE MINNESOTA POST BOARD

This section explains the role of the Minnesota POST Board and provides an overview of recent efforts to review and recommend changes to the requirements and standards for law enforcement officers statewide.

The Minnesota Board of Peace Officer Standards and Training (POST Board) is a state-level agency that sets the requirements and standards for licensing, training, and conduct of law enforcement officers. For over 30 years, the POST Board has set the rules about who can be hired as a law enforcement officer and what they have to do (and not do) to stay an officer.

Historically, the POST Board has not set strong requirements and standards for law enforcement officers. Without strong requirements and standards, officers lack clear guidance and cannot be held accountable for failing to protect and serve their communities.

In August 2020, the POST Board began a process of reviewing and recommending changes to the rules that shape the behavior of officers and the work of the Board. To lead the review, the POST Board created an Advisory Committee of 20 individuals representing a diverse set of stakeholders, including law enforcement officers, academics and researchers, community activists, local and state organizations, and related groups.

In March 2022, the Advisory Committee completed a partial review of the rules and recommended changes. **The POST Board is now asking members of the public to comment on the proposed rules changes. The Board is particularly interested in hearing from the public on rules changes that were not unanimously approved, including:**



Involvement in hate groups. This rules change identifies the support, advocacy, or participation in white supremacist, hate or extremist groups or criminal gangs (hate group) by licensed officers as a violation of the standards of conduct.



Eligibility of noncitizens to be licensed as an officer. This rules change says that persons who are legally entitled to work in the United States but are not yet citizens are eligible to be licensed as a law enforcement officer. Police departments can choose (but are not required) to hire non-citizens who are legally entitled to work in the U.S.



This change requires law enforcement agencies to adopt a policy pertaining to public assembly and First Amendment activity, which would establish shared expectations for law enforcement conduct and responses to crowd events.

The remaining sections of this toolkit offer an overview of the comment process, outline the reasons for each proposed rule, and provide examples of sample comments to submit to the POST Board.

WE NEED YOUR VOICE

The Minnesota POST Board is recommending changes to the rules that govern the requirements and standards for law enforcement officers statewide. This section provides an overview of administrative rules and the process for changing those rules.

Administrative rules are regulations written by state agencies to implement or interpret state laws. In the lawmaking process, laws that are enacted by legislative bodies like the Minnesota House of Representatives and Senate do not always include the details necessary for carrying out the law. When this happens, the legislature directs state agencies to propose regulations that allow the agency to interpret or implement the laws.

For example, Minnesota state law establishes the Minnesota Board of Peace Officer Standards and Training (POST Board) and gives it authority over the minimum educational and training standards for law enforcement officers. Yet instead of defining those minimum standards, state law directs the POST Board to adopt rules that specify what education and training is necessary to become an officer in Minnesota.

There is a specific process that state agencies - including the POST Board - must follow to propose and enact rules.

1. A state office must give public notice that they are considering adopting rules and request public comment.
2. The state office must propose rules within a given time frame.
3. The state office must let the public know which rules it is proposing and why and must give the public a chance to provide feedback on the proposed rules through the commenting process.
4. The state office considers all public comments and may hold subsequent hearings on the proposed rules.
5. An Administrative Law Judge reviews the proposed rules and public comments and makes a final decision on whether to enact the proposed rules.

The timeline below shows the POST Board's process of revising the administrative rules over which it has authority. The Board is currently at #3 (the red circle below) - requesting public comments on the proposed rules changes.

Timeline of the POST Board's Rulemaking Work



HOW TO SUBMIT A COMMENT

This section provides information on how members of the public can submit comments about the POST Board's proposed rules changes.

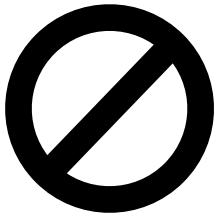
Members of the public must submit comments in a particular way.

1. First, all comments must be in writing. They can be emailed, faxed, or sent to the POST Board via mail, at the following addresses:
 - **Email:** POSTrules.POST@state.mn.us
 - **Fax:** 651-643-3072
 - **Mail:** POST Board, 1600 University Ave, Suite 200, St. Paul, Minnesota, 55104
2. Second, all comments must be submitted within a month of the notification to the public of the proposed rules. **Comments must be submitted by 4:30 PM Central time on July 20, 2022.**
3. Third, comments should be specific. They should cite the rule number or the rule being commented on and explain a reason for support or opposition to the proposed rule. Comments can also identify suggestions or changes to the proposed rule.

This toolkit includes sample comments related to proposed rules changes about involvement in hate groups, the eligibility of noncitizens to serve as officers, and public assembly/First Amendment protections. Each sample comment includes the rule number and rule being commented on and provides a structure for listing reasons to support the rules changes. Reasons for supporting the rules changes can build from the reasons offered in this toolkit, but should reference the personal or professional experiences, expertise, or perspective of each comment writer.

All comments are public and will be reviewed by an Administrative Law Judge and the POST Board later this summer. If a proposed rule has more than 25 comments, public hearings will be held. These hearings are currently scheduled for October 2022.

More information is available at the following site: <https://dps.mn.gov/entity/post/Pages/statute-rules.aspx>. For questions, please contact Rebecca Gaspard, Rules and Legislative Coordinator, at rebecca.w.gaspard@state.mn.us or 651-201-7781.



Involvement in white supremacist, hate or extremist groups, or criminal gangs

The rule is included in MN Rules, part 6700.1600, subpart 1, item H.

This rule identifies support, advocacy, or participation in white supremacist, hate or extremist groups or criminal gangs (hate groups) by licensed law enforcement officers as a violation of the standards of conduct. Standards of conduct identify behaviors and activities that interfere with an officer's ability to protect and serve their communities

Currently, there is no rule identifying such involvement by licensed officers as a violation of standards of conduct.

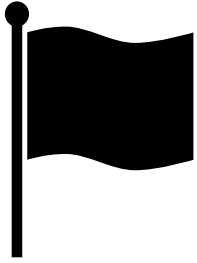
It is reasonable and necessary to make involvement in a hate group - including a white supremacist group - a violation of standards of conduct for law enforcement officers because:

- ➔ Involvement in a hate group interferes with an officer's duties by contributing to conscious bias and undermining the integrity of law enforcement activities.
- ➔ Involvement in a hate group has a serious and deleterious impact on community trust, which is fundamental to protecting and serving the public.
- ➔ Involvement in a hate group can lead to Brady-Giglio impairments, which draw an officer's credibility into question and can limit a prosecutor's ability to rely on an officer for testimony or evidence in criminal cases. Brady-Giglio requires that prosecutors disclose evidence that may lead to the impeachment of law enforcement officers, including findings or allegations of bias towards individuals or groups.

Ten members of the Advisory Committee supported the rule and ten opposed the rule.

Opponents recommend eliminating language pertaining to white supremacist groups. However, it is necessary to specify white supremacist groups because:

- ➔ FBI reports and recent congressional hearings have identified white supremacist groups as infiltrating law enforcement.
- ➔ The U.S. Department of Homeland Security identifies white supremacist extremists as the most persistent and lethal threat among domestic violence extremists in the U.S.
- ➔ White supremacist activity in Minnesota exceeds any other type of hate activity, as reported by ADL, which monitors antisemitism and bias nationwide.



Eligibility of non-citizens to be licensed as officers

The rule is included in MN Rules, part 6700.0700, subpart 1, item A.

This rule states that qualified individuals who are legally entitled to work in the United States but are not yet citizens are eligible to be licensed as an officer in Minnesota. Currently, only citizens are eligible for a law enforcement license.

This change would allow - but not require - law enforcement agencies to hire non-citizens who are eligible to work in the U.S. Individual agencies could still choose to only hire citizens.

This rule is reasonable and necessary for the following reasons:

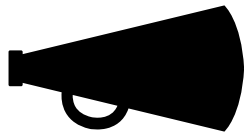
- ➔ Expanding eligibility will allow law enforcement agencies to increase their applicant pool. A growing number of states and localities are removing or modifying citizenship requirements for officers, particularly as law enforcement agencies nationwide struggle to find qualified officers.
- ➔ Expanding eligibility allows law enforcement agencies to hire a more diverse set of officers. By extending eligibility to non-citizens who are legally eligible to work, agencies may be able to hire officers who share language and culture with immigrant communities that are being served. This in turn can help build trust between law enforcement and community.
- ➔ Expanding eligibility allows law enforcement agencies to hire particular groups of non-citizens, such as Dreamers or DACA recipients.

All applicants - citizen or noncitizen - must have met required training, education, experience, and testing requirements before they are eligible to be licensed as an officer in Minnesota.

Seven members of the Advisory Committee approved the rule and 13 opposed the rule.

Opponents of the rule argue that further analysis is necessary before adopting the change, and recommend using the language of “legal permanent resident” rather than “persons eligible to work in the United States under federal requirements.” Opponents argue that such a change would increase diversity and alleviate recruitment problems while still restricting eligibility to those granted the ability to live and work in the U.S. on a long-term basis.

However, the language of “legal permanent resident” is overly technical and tied to current federal definitions. The dynamic nature of immigration reform at the federal level means that such a term may soon be outdated. This would cause practical disruptions to the implementation of the rule.



Public assembly and First Amendment protections

The rule is included in MN Rules, part 6700.1615.

This rule requires law enforcement agencies to adopt a policy that sets standards for the activities of law enforcement during crowd events.

Minnesota state statute requires law enforcement agencies to adopt 18 policies on topics including use of force, avoiding racial profiling, and confidential informants. These 'model policies' set standards in each topic area.

This rule change requires agencies to adopt a 19th policy that sets standards for use of force in a crowd, requires local authorization as well as crowd warnings before use of force is initiated, outlines officer conduct at events, requires visible officer identification on the uniform or helmet, and addresses First Amendment issues including the presence of media.

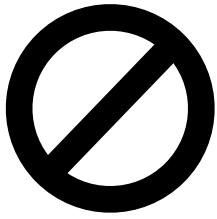
This rule is reasonable and necessary for the following reasons:

- ➔ Establishing a statewide policy on public assembly will give law enforcement, the media, and the public shared expectations for how law enforcement officers will respond to crowd events.
- ➔ The required policy is a direct response to a recommendation from the [Ensuring Police Excellence and Improving Community Relations Advisory Council](#) (EPEICRAC), a council established by statute in 2020 to, in part, "advance policies and reforms that promote positive interactions between peace officers and the community."

The need for a required statewide policy was evident in the events related to the George Floyd and Daunte Wright protests, where the response of law enforcement officers resulted in injuries to members of the public and the media.

Six members of the Advisory Committee opposed the rule.

Opponents of the rule argue that the POST Board lacks the statutory authority to mandate such a policy. However, the Board is responsible for regulating standards for law enforcement officers statewide. Minnesota statutes also give the Board general authority to engage in actions that are "necessary or appropriate to carry out the powers and duties of the board" (MN statutes, section 626.843, sub. 3(4)). In addition, under the proposed change, law enforcement agencies will maintain their ability to adjust the policy to reflect the local operating conditions of the agency.



Sample Comment #1

Involvement in white supremacist, hate or extremist groups, or criminal gangs

[Put today's date here]

To Whom It May Concern,

Thank you for the opportunity to comment on the Proposed Amendments to Rules Governing Peace Offices, Minnesota Rules, Chapter 6700. I am submitting a comment about rule part 6700.1600, subpart 1, item H, which identifies the support, advocacy, or participation in a white supremacist, hate and extremist groups, and criminal gangs (hate groups) as a violation of the standards of conduct.

I am... *[Introduce yourself, your organization, and why you are commenting on the proposed rule change. For example: Does your work involve public safety? Have you or someone you know been personally affected by racially discriminatory policing? Do you have specialized knowledge about white supremacy groups in the US?]*

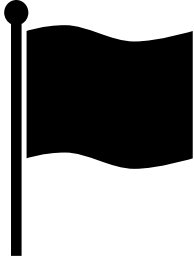
I am writing in support of rule part 6700.1600, subpart 1, item H. I support this rule because: *[List the reasons why you support this rule. You can use any of the reasons discussed in this toolkit, but you should connect the reason to your own experiences or expertise - whether personal or professional. You can list as many reasons as you like.]*

- Reason 1
- Reason 2
- Reason 3

In conclusion, *[Summarize your position and the key reasons why you support change].*

Sincerely,

[Put your name here as well as any relevant affiliations, experience, or expertise - such as membership in an organization, degrees, etc]



Sample Comment #2

Eligibility of noncitizens to be licensed as officers

[Put today's date here]

To Whom It May Concern,

Thank you for the opportunity to comment on the Proposed Amendments to Rules Governing Peace Offices, Minnesota Rules, Chapter 6700. I am submitting a comment about rule part 6700.0700, subpart 1, item A, which allows qualified individuals who are legally able to work in the United States but are not yet citizens to be licensed as an officer in Minnesota.

I am... ***[Introduce yourself, your organization, and why you are commenting on the proposed rule change. For example: Does your work involve public safety? Have you seen the benefits of a diverse police force that reflects the cultural characteristics and/or language of the community it serves? Do you know Dreamers or other non-citizens who would make excellent law enforcement officers?]***

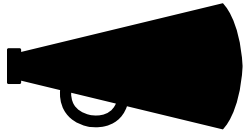
I am writing in support of rule part 6700.0700, subpart 1, item A. I support this rule because: ***[List the reasons why you support this rule. You can use any of the reasons discussed in this toolkit, but you should connect the reason to your own experiences or expertise - whether personal or professional. You can list as many reasons as you like.]***

- Reason 1
- Reason 2
- Reason 3

In conclusion, ***[Summarize your position and the key reasons why you support change].***

Sincerely,

[Put your name here as well as any relevant affiliations, experience, or expertise - such as membership in an organization, degrees, etc]



Sample Comment #3

Public assembly and First Amendment Protections

[Put today's date here]

To Whom It May Concern,

Thank you for the opportunity to comment on the Proposed Amendments to Rules Governing Peace Offices, Minnesota Rules, part 6700.1615, which would require law enforcement agencies to adopt a policy setting standards for the activities of law enforcement officers during crowd events.

I am... *[Introduce yourself, your organization, and why you are commenting on the proposed rule change. For example: Does your work involve public safety? Have you or someone you know been personally involved with law enforcement during a crowded event?]*

I support this rule because: *[List the reasons why you support this rule. You can use any of the reasons discussed in this toolkit, but you should connect the reason to your own experiences or expertise - whether personal or professional. You can list as many reasons as you like.]*

- Reason 1
- Reason 2
- Reason 3

In conclusion, *[Summarize your position and the key reasons why you support change].*

Sincerely,

[Put your name here as well as any relevant affiliations, experience, or expertise - such as membership in an organization, degrees, etc]