

Part 3

Dispatcher Training and Certification Act

53-6-301 Title.

This part is known as the "Dispatcher Training and Certification Act."

Enacted by Chapter 134, 1995 General Session

53-6-302 Applicants for certification examination -- Requirements.

- (1) Before being allowed to take a dispatcher certification examination, each applicant shall meet the following requirements:
 - (a) be a United States citizen;
 - (b) be 18 years of age or older at the time of employment as a dispatcher;
 - (c) be a high school graduate or have a G.E.D. equivalent;
 - (d) have not been convicted of a crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;
 - (e) have demonstrated good moral character, as determined by a background investigation; and
 - (f) be free of any physical, emotional, or mental condition that might adversely affect the performance of the applicant's duty as a dispatcher.
- (2)
 - (a) An application for certification shall be accompanied by a criminal history background check of local, state, and national criminal history files and a background investigation.
 - (b) The costs of the background check and investigation shall be borne by the applicant or the applicant's employing agency.
- (3)
 - (a) Notwithstanding Title 77, Chapter 40, Utah Expungement Act, regarding expungements, or a similar statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures, may be considered for purposes of this section.
 - (b) Subsection (3)(a) applies to convictions entered both before and after May 1, 1995.
- (4) Any background check or background investigation performed pursuant to the requirements of this section shall be to determine eligibility for admission to training programs or qualification for certification examinations and may not be used as a replacement for any background investigations that may be required of an employing agency.
- (5) An applicant is considered to be of good moral character under Subsection (1)(e) if the applicant has not engaged in conduct that would be a violation of Subsection 53-6-309(1).

Amended by Chapter 258, 2011 General Session

53-6-303 Completion of certification examination required -- Persons affected.

- (1) Except as provided in Subsection (2), a person must successfully complete the basic dispatcher training course and pass the certification examination according to the requirements of this part before that person can be a certified dispatcher.
- (2) Subsection (1) applies only to persons not previously certified and who receive their first employment as a dispatcher in this state on or after July 1, 1996.

Enacted by Chapter 134, 1995 General Session

53-6-304 Waiver of training course requirement.

- (1) The director may waive the required basic dispatcher training course and certify an applicant who:
 - (a) provides evidence that the applicant meets the requirements under Section 53-6-302, relating to qualifications for admission to the training course;
 - (b) provides evidence that the applicant has completed a basic dispatcher training program that, in the director's judgment, is equivalent to the course required for certification under this part; and
 - (c) passes the certification examination.
- (2) An applicant who fails the examination under Subsection (1)(c) shall complete the basic dispatcher training course and pass the certification examination to become certified.

Amended by Chapter 258, 2011 General Session

53-6-305 Local governments -- Option -- Higher minimum standards.

- (1) Participation in dispatcher training and certification under this part is at the option of the legislative body of each county or municipality that employs dispatchers.
- (2) The minimum standards in this part concerning dispatcher qualifications and training do not preclude counties or municipalities from establishing standards higher than the minimum standards contained in this part.

Enacted by Chapter 134, 1995 General Session

53-6-306 Inactive and lapsed certificates -- Reissuance or reinstatement -- Annual training requirement.

- (1)
 - (a) The certificate of a dispatcher who has not been actively engaged in performing the duties of a dispatcher for 18 consecutive months or more is designated "inactive."
 - (b) A dispatcher whose certificate is inactive shall pass the certification examination before the certificate may be reissued or reinstated.
- (2)
 - (a) The certificate of a dispatcher who has not been actively engaged in performing the duties of a dispatcher for four continuous years shall be designated "lapsed."
 - (b) A dispatcher whose certificate has lapsed shall successfully complete the basic training course and pass the certification examination before the certificate may be reissued or reinstated.
- (3)
 - (a) A certified dispatcher shall complete annual training approved by the director of 20 hours or more.
 - (b) If a dispatcher fails to satisfactorily complete the annual training, the dispatcher's certificate shall be suspended until any deficiency in the annual training is remedied.

Amended by Chapter 258, 2011 General Session

53-6-307 Termination of employment -- Change of status form.

- (1) When a certified dispatcher's employment terminates or a certified dispatcher's status changes, the employing agency shall submit a change of status form noting the termination of the certified dispatcher to the division.
- (2) The change of status form shall:
 - (a) be completed and submitted within 30 days of the certified dispatcher's termination date;
 - (b) identify the circumstances of the certified dispatcher's status change by indicating that the certified dispatcher has resigned, retired, terminated, transferred, deceased, or that the certified dispatcher's name has changed;
 - (c) indicate the effective date of action; and
 - (d) indicate the name of the new employer, if the status change is due to a transfer.
- (3) Any person or agency who intentionally falsifies, misrepresents, or fails to give notice of the change of status of a certified dispatcher is liable to the division for any damages that may be sustained by the failure to make the notification.

Enacted by Chapter 134, 1995 General Session

53-6-308 Investigations and certification hearings -- Powers of division -- Violation.

- (1) For investigations by the division and for certification hearings or other testimony before the council, the division may administer oaths and affirmations, subpoena witnesses, take evidence, and require by subpoena duces tecum the production of relevant papers, records, or other documents or information, whether filed or kept in original form, or electronically stored or recorded.
- (2) A person who willfully disobeys a properly served subpoena issued by the division is guilty of a class B misdemeanor.

Enacted by Chapter 134, 1995 General Session

53-6-309 Suspension or revocation of certification -- Right to a hearing -- Grounds -- Notice to employer -- Reporting.

- (1) The council has authority to suspend or revoke the certification of a dispatcher, if the dispatcher:
 - (a) willfully falsifies any information to obtain certification;
 - (b) has any physical or mental disability affecting the dispatcher's ability to perform duties;
 - (c) is addicted to alcohol or any controlled substance, unless the dispatcher reports the addiction to the employer and to the director as part of a departmental early intervention process;
 - (d) engages in conduct that is a state or federal criminal offense, but not including a traffic offense that is a class C misdemeanor or infraction;
 - (e) refuses to respond, or fails to respond truthfully, to questions after having been issued a warning based on *Garrity v. New Jersey*, 385 U.S. 493 (1967); or
 - (f) engages in sexual conduct while on duty.
- (2) The council may not suspend or revoke the certification of a dispatcher for a violation of the employing agency's policies, general orders, or guidelines of operation that do not amount to a cause of action under Subsection (1).
- (3)
 - (a) The division is responsible for investigating dispatchers who are alleged to have engaged in conduct in violation of Subsection (1).

- (b) The division shall initiate all adjudicative proceedings under this section by providing to the dispatcher involved notice and an opportunity for a hearing before an administrative law judge.
 - (c) All adjudicative proceedings under this section are civil actions, notwithstanding whether the issue in the adjudicative proceeding is a violation of statute that may be prosecuted criminally.
 - (d)
 - (i) The burden of proof on the division in an adjudicative proceeding under this section is by clear and convincing evidence.
 - (ii) If a dispatcher asserts an affirmative defense, the dispatcher has the burden of proof to establish the affirmative defense by a preponderance of the evidence.
 - (e) If the administrative law judge issues findings of fact and conclusions of law stating there is sufficient evidence to demonstrate that the dispatcher engaged in conduct that is in violation of Subsection (1), the division shall present the findings and conclusions issued by the administrative law judge to the council.
 - (f) The division shall notify the agency that employs the involved dispatcher of the investigation and shall provide any information or comments concerning the dispatcher received from that agency regarding the dispatcher to the council before a dispatcher's certification may be suspended or revoked.
 - (g) If the administrative law judge finds that there is insufficient evidence to demonstrate that the dispatcher is in violation of Subsection (1), the administrative law judge shall dismiss the adjudicative proceeding.
- (4)
- (a) The council shall review the findings of fact and conclusions of law and the information concerning the dispatcher provided by the dispatcher's employing agency and determine whether to suspend or revoke the dispatcher's certification.
 - (b) A council member shall recuse himself or herself from consideration of an issue that is before the council if the council member:
 - (i) has a personal bias for or against the dispatcher;
 - (ii) has a substantial pecuniary interest in the outcome of the proceeding and may gain or lose some benefit from the outcome; or
 - (iii) employs, supervises, or works for the same agency as the dispatcher whose case is before the council.
- (5)
- (a) Termination of a dispatcher, whether voluntary or involuntary, does not preclude suspension or revocation of a dispatcher's certification by the council if the dispatcher was terminated for any of the reasons under Subsection (1).
 - (b) Employment by another agency, or reinstatement of a dispatcher by the original employing agency after termination by that agency, whether the termination was voluntary or involuntary, does not preclude suspension or revocation of a dispatcher's certification by the council if the dispatcher was terminated for any of the reasons under Subsection (1).
- (6) An agency that is made aware of an allegation against a dispatcher employed by that agency that involves conduct in violation of Subsection (1) shall investigate the allegation and report to the division if the allegation is found to be true.

Repealed and Re-enacted by Chapter 258, 2011 General Session

53-6-310 Responsibility for training -- Certification.

- (1) The division is not responsible for providing basic or in-service training for certified dispatchers except for approval of the instructors and content of training where required by this chapter or division rules.
- (2) Where this chapter requires an agency head to certify that a member has completed required training, the division shall rely on the certification, as provided, to be accurate.

Enacted by Chapter 134, 1995 General Session

53-6-311 Voluntary relinquishment of dispatcher certification.

- (1)
 - (a) A dispatcher may voluntarily relinquish the dispatcher's certification to the division at any time when a disciplinary issue regarding the dispatcher has been referred to the division.
 - (b) A dispatcher who voluntarily relinquishes certification under this Subsection (1) may not subsequently be certified as a dispatcher in Utah.
- (2) Subsection (1) does not apply to a dispatcher whose certification has become inactive as provided in Section 53-6-306.

Enacted by Chapter 258, 2011 General Session