

**RCW 43.101.135 Separation of peace or corrections officer—Notification to commission—Investigation—Civil penalty.** (1)(a) Upon separation of a peace officer or corrections officer from an employing agency for any reason, including termination, resignation, or retirement, the agency shall notify the commission within 15 days of the separation date on a personnel action report form provided by the commission.

(b) If the employer accepts an officer's resignation or retirement in lieu of termination, the employing agency shall report the reasons and rationale in the information provided to the commission, including the findings from any internal or external investigations into alleged misconduct.

(2) In addition to those circumstances under subsection (1) of this section and whether or not disciplinary proceedings have been concluded, the employing agency shall:

(a) Notify the commission within 15 days of learning of the occurrence of any death or serious injury caused by the use of force by an officer or any time an officer has been charged with a crime. Employing agencies must have a policy requiring officers to report any pending criminal charges and any conviction, plea, or other case disposition immediately to their agency; and

(b) Notify the commission within 15 days of an initial disciplinary decision by an employing agency for alleged behavior or conduct by an officer that is noncriminal and may result in revocation of certification pursuant to RCW 43.101.105.

(3) To better enable the commission to act swiftly and comprehensively when misconduct has occurred that may undermine public trust and confidence in law enforcement or the correctional system, if the totality of the circumstances support a conclusion that the officer resigned or retired in anticipation of discipline, whether or not the misconduct was discovered at the time, and when such discipline, if carried forward, would more likely than not have led to discharge, or if the officer was laid off when disciplinary investigation or action was imminent or pending which could have resulted in the officer's suspension or discharge, the employing agency shall conduct and complete the investigation and provide all relevant information to the commission as if the officer were still employed by the agency.

(4) Upon request of the commission, the employing agency shall provide such additional documentation or information as the commission deems necessary to determine whether the separation or event provides grounds for suspension or revocation.

(5) At its discretion, the commission may:

(a) Initiate decertification proceedings upon conclusion of any investigation or disciplinary proceedings initiated by the employing agency;

(b) Separately pursue action against the officer's certification under RCW 43.101.105; or

(c) Wait to proceed until any investigation, disciplinary proceedings, or appeals through the employing agency are final before taking action. Where a decertification decision requires a finding that the officer's conduct violated policy and the employing agency has begun its investigation into the underlying event, the commission shall await notification of a finding by the employing agency before beginning the decertification process.

(6) No action or failure to act by an employing agency or decision resulting from an appeal of that action precludes action by the commission to suspend or revoke an officer's certification.

(7) An employing agency may not enter into any agreement or contract with an officer, or union:

(a) Not to report conduct, delay reporting, or preclude disclosure of any relevant information, including a promise not to check the box on a commission notice that indicates the officer may have committed misconduct, in exchange for allowing an officer to resign or retire or for any other reason; or

(b) That allows the agency to destroy or remove any personnel record while the officer is employed and for 10 years thereafter. Such records must include all misconduct and equal employment opportunity complaints, progressive discipline imposed including written reprimands, supervisor coaching, suspensions, involuntary transfers, investigatory files, and other disciplinary appeals and litigation records.

(8) The commission shall maintain all information provided pursuant to this section in a permanent file.

(9) In addition to disciplinary action authorized in RCW 43.101.105, the commission may impose a civil penalty not to exceed \$10,000 for the failure by an officer or an employing agency to timely and accurately report information pursuant to this section. [2021 c 323 § 11; 2001 c 167 § 6.]