

### **11B-27.0011 Moral Character.**

(1) For the purpose of certification, employment, or appointment, pursuant to procedures established by paragraph 11B-27.002(1)(g) and Rule 11B-27.00225, F.A.C., the employing agency is responsible for conducting a thorough background investigation to determine the moral character of an applicant, pursuant to Section 943.13(7), F.S.

(2) The unlawful use of any controlled substances pursuant to Rule 11B-27.00225, F.A.C., by an applicant for certification, employment, or appointment, at any time proximate to the submission of application for certification, employment, or appointment, conclusively establishes that the applicant is not of good moral character pursuant to Section 943.13(7), F.S. The unlawful use of any controlled substances specified in Rule 11B-27.00225, F.A.C., by an applicant may or may not conclusively establish that the applicant is not of good moral character pursuant to Section 943.13(7), F.S., depending upon the type of controlled substance used, the frequency of use, and the age of the applicant at the time of use. Nothing in this rule chapter is intended to restrict the requirements of Section 943.13(7), F.S., to controlled substance use only.

(3) Upon written request and submission of materials, the Commission shall evaluate the qualification of an applicant to determine compliance with “good moral character” pursuant to this rule section.

(4) For the purposes of the Criminal Justice Standards and Training Commission’s implementation of any of the penalties specified in Section 943.1395(6) or (7), F.S., a certified officer’s failure to maintain good moral character required by Section 943.13(7), F.S., is defined as:

(a) The perpetration by an officer of an act that would constitute any felony offense, whether criminally prosecuted or not.

(b) The perpetration by an officer of an act that would constitute any of the following misdemeanor or criminal offenses whether criminally prosecuted or not:

1. Sections 316.193, 316.1935, 327.35, 414.39, 741.31, 784.011, 784.03, 784.047, 784.048, 784.05, 790.01, 790.10, 790.15, 790.27, 794.027, 796.07, 800.02, 800.03, 806.101, 806.13, 810.08, 812.014, 812.015, 812.14, 817.235, 817.49, 817.563, 817.565, 817.567, 817.61, 817.64, 827.04, 828.12, 831.30, 831.31(1)(b), 832.05, 837.012, 837.05, 837.06, 839.13, 839.20, 843.02, 843.03, 843.06, 843.085, 847.011, 856.021, 870.01, 893.13, 893.147, 914.22, 934.03, 944.35, 944.37, and 944.39, F.S.

2. Any principal, accessory, attempt, solicitation, or conspiracy, pursuant to Chapter 777, F.S., which had the crime been committed or completed would have been a felony offense; or

3. The perpetration of an act in any jurisdiction other than the State of Florida, which if committed in the State of Florida would constitute any offense listed in this rule section.

(c) The perpetration by an officer of acts or conduct that constitute the following offenses:

1. Excessive use of force, defined as a situation in which an officer uses a “level of force” inappropriate with the circumstances presented at the time of the incident. In the administrative review of “use of force” for officer disciplinary cases, the Commission applies the Commission’s Recommended Response to Resistance and Levels of Resistance, form CJSTC-85, revised February 7, 2002, hereby incorporated by reference, to evaluate “use of force” circumstances presented in a disciplinary case.

2. Misuse of official position, defined by Section 112.313(6), F.S.

3. Having an unprofessional relationship with an inmate, detainee, probationer or parolee, or community controllee. An unprofessional relationship is defined as:

a. Having written or oral communication with an inmate, detainee, probationer or parolee, or community controllee that is intended to facilitate conduct prohibited by this rule section; or

b. Engaging in physical contact not required in the performance of official duties, and is defined as kissing, fondling of the genital area, buttocks, or breasts, massaging or similar touching, holding hands, any other physical contact normally associated with the demonstration of affection or sexual misconduct as applied to all certifications, which is defined in Section 944.35(3), F.S.

4. Sexual harassment pursuant to and consistent with decisions interpreting 29 C. F. R. 1604.11, including unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when the harassment involves physical contact or misuse of official position and when:

a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; or

b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

c. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.

5. Engaging in sex while on duty, or at any time the officer is acting under the color of authority as a Commission-certified

criminal justice officer.

6. False statements during the employment application process.
  7. Conduct that subverts or attempts to subvert the State Officer Certification Examination process pursuant to Rule 11B-30.009, F.A.C.
  8. Conduct that subverts or attempts to subvert the Basic Abilities Test process pursuant to subsections 11B-35.0011(1)-(5), F.A.C.
  9. Conduct that subverts or attempts to subvert the examination process for Commission-approved training at a Commission-certified training school or an employing agency promotional examination process which shall include the following:
    - a. Removing from the examination room any of the examination materials.
    - b. Reproducing or reconstructing any portion of the examination.
    - c. Aiding by any means in the reproduction of any portion of the examination.
    - d. Selling, distributing, buying, receiving, or having unauthorized possession of any portion of a past, current, or future examination.
    - e. Communication with any other examinee during the administration of the examination.
    - f. Copying answers from another examinee, or intentionally allowing one's answers to be copied by another examinee during the administration of the examination.
    - g. Having in one's possession during the administration of the examination, any books, notes, written or printed materials, or data of any kind, not supplied as part of, or required for, the test administration.
    - h. Falsifying or misrepresenting information required for admission to the examination.
    - i. Impersonating an examinee.
    - j. Having an impersonator take the examination on one's behalf.
    - k. Disrupting the test administration.
    - l. Revealing the test questions or other information that would compromise the integrity of the examination.
  10. Any overt, conspicuous, or public act of a sexual or simulated sexual nature which is likely to be observed by others.
  11. Willful failure of the agency head to comply with Chapter 943, F.S., as it pertains to the Criminal Justice Standards and Training Commission or Commission rules.
  12. Intentional abuse of a Temporary Employment Authorization, pursuant to Section 943.131(1), F.S. pursuant to Rule 11B-27.00225, F.A.C., or is consistent with and indicative of the ingestion of a controlled substance pursuant to Chapter 893, F.S., and not having a specific nanogram level listed in Rule 11B-27.00225, F.A.C., shall be an affirmative defense to this provision to establish that any such ingestion was lawful. Any test of this kind relied upon by the Commission for disciplinary action, shall comply with the requirements for reliability and integrity of the testing process pursuant to Rule 11B-27.00225, F.A.C.
- (d) Testing positive for controlled substances by a urine or blood test that results in a confirmed nanogram level pursuant to Rule 11B-27.00225, F.A.C., or is consistent with and indicative of the ingestion of a controlled substance pursuant to Chapter 893, F.S., and not having a specific nanogram level listed in Rule 11B-27.00225, F.A.C., shall be an affirmative defense to this provision to establish that any such ingestion was lawful. Any test of this kind relied upon by the Commission for disciplinary action, shall comply with the requirements for reliability and integrity of the testing process pursuant to Rule 11B-27.00225, F.A.C.
- (5) Recantation, pursuant to Section 837.07, F.S., shall be a defense to any violation, involving perjury or a false statement, pursuant to subsection (4) of this rule section.
- (6) The employing agency shall forward to the Commission the agency's investigative report pursuant to procedures established in Rule 11B-27.003, F.A.C., when an allegation has been made that an officer has failed to maintain good moral character, as defined in subsection (4) of this rule section, and has been sustained by the employing agency, or an act of conduct by the officer has resulted in the officer's arrest. The report shall be forwarded immediately upon separation of the officer from employment, or, if the officer is not separated from employment, within 45 days from the date an allegation has been sustained, as set forth in this rule section.
- (7) Commission staff's decision to initiate presentation of a case for a Commission Probable Cause Determination shall be based upon the following conditions:
- (a) Whether the allegations against the officer constitute a violation of subsection (4) of this rule section or Section 943.13(4), F.S.;
  - (b) Whether there is evidence of probable cause to support the filing of a complaint; and

(c) Whether a Letter of Acknowledgement is warranted pursuant to subsections 11B-27.004(7)-(11), F.A.C.

(8) Forms referenced in this rule chapter may be obtained on the following web site: [http://www.fdle.state.fl.us/cjst/rules\\_and\\_forms/index.html](http://www.fdle.state.fl.us/cjst/rules_and_forms/index.html) or by contacting the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Post Office Box 1489, Tallahassee, Florida 32302-1489, Attention: Bureau of Standards Forms Liaison.

*Specific Authority 943.03(4), 943.12(1) FS. Law Implemented 943.13(7), 943.1395(7) FS. History—New 1-7-85, Formerly 11B-27.011, Amended 7-13-87, 10-25-88, 12-13-92, 9-5-93, 1-19-94, 8-7-94, 11-5-95, 1-2-97, 7-7-99, 8-22-00, 11-5-02, 4-11-04, 11-30-04, 3-27-06.*