

**BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO**

**IN THE MATTER OF THE APPEAL BY** )  
**[NAME REDACTED],** ) **No. 23 AA 33**  
**APPLICANT FOR THE POSITION OF** )  
**PROBATIONARY POLICE OFFICER,** ) **(Applicant No. [redacted])**  
**CITY OF CHICAGO.** )

**FINDINGS AND DECISION**

[Name redacted], (hereinafter referred to as “Applicant”) applied for a probationary police officer position with the City of Chicago. In a letter dated August 18, 2023, the Office of Public Safety Administration gave Applicant written notice of its decision to remove Applicant from the list of eligible applicants for this position (“Eligibility List”) due to the results of a background investigation, along with the reason(s) for the disqualification decision and the process for appeal (“Notice”). In support of its decision, Department cited conduct it alleged formed the bases of Disqualification(s) Based on Criminal Conduct and False Statements or Omissions and/or Failure to Cooperate in the Application Process.

In an email dated September 18, 2023, Applicant appealed the disqualification decision to the Police Board by filing a written request in order to 1) specify why the Department of Police (hereinafter referred to as “Department”) erred in the factual determinations underlying the disqualification decision *and/or* 2) bring to the Board’s attention additional facts directly related to the reason(s) for the disqualification decision, pursuant to Section 2-84-035(b) of the Municipal Code of Chicago (“Appeal”). Department filed a Response October 31, 2023. No Reply was filed.

Police Board Appeals Officer Laura Parry has reviewed the Notice, Appeal and Response.

**APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION**

Appeals Officer Laura Parry, as a result of a review of the above material, submits the following findings of fact, conclusions of law, and recommendation to the Police Board.

**FILINGS BY PARTIES**

According to the Notice, which includes the Candidate Background Investigation Summary dated June 5, 2023 (hereinafter “Background Investigation Report”), Applicant was removed from the list of eligible applicants for the position of probationary police officer for the following reason(s):

**Basis #1**

IV-B. Disqualification Based on Criminal Conduct, as cited by Department:

7. Other Criminal Conduct

a. Conduct Involving Drugs

"The City of Chicago has an obligation to maintain a safe, healthy and productive work environment for its employees. An employee under the influence of drugs or alcohol while at work can be a serious safety risk to himself or herself, to other employees, and in certain instances, to the general public. The abuse of drugs or alcohol also has [a] negative impact on the productivity and health of City employees. In order to maintain a safe and healthy work environment, the City of Chicago has established a “zero tolerance” policy regarding the unlawful use of drugs for its employees. This policy also prohibits the illegal sale, delivery, receipt, possession or use of any controlled substance. Further, any applicant who has illegally sold, delivered, received, possessed or used any controlled substance (under state or federal law and regardless of geographic location) has, if falling into any of the five categories listed below, demonstrated that they present a safety risk to themselves and others. The City defines an illegal drug as any drug that is not legally obtained in the United States, any drug used in a manner or for a purpose other than prescribed, or any prescription drug that was sold, delivered, received, possessed or used by or to a person to whom it was not prescribed.

While the Chicago Police does not condone prior unlawful drug use by its applicants, we recognize that some otherwise qualified candidate may have engaged in limited drug use at some time in their past. The following standards set forth the criteria for determining whether prior drug use makes an applicant unsuitable for employment. These standards balance the Chicago Police Department’s need to maintain a drug-free environment and foster the public integrity needed to enforce applicable drug laws with the understanding that people sometimes have made mistakes that are not indicative of future performance or current abilities.

...

(6) An applicant who has used any illegal drug, other than Marijuana, within the

last five (5) years (from the date of PHQ submission), or has engaged in more than minimal experimentation at any point in his or her life may be found unsuitable for employment. When determining that drug use constituted more than minimal experimentation, all relevant factors, such as frequency of use, length of time since the last use, and the age of the applicant when he or she last used any illegal drug, will be evaluated. Exceptions to this standard may be made on an individual basis for the un-prescribed use of prescription drugs, provided that such use was only medicinal, isolated and infrequent." (Background Investigation Report, p. 1-2)

Department cited the following conduct, in summary:

Applicant changed the answer to Q #75 on the Personal History Questionnaire ("PHQ") to "yes" during the interview with the Kentech investigator and admitted using "mushrooms" (a/k/a "shrooms") that he got from a friend. The polygraph examiner reported that during the exam on January 17, 2023 Applicant admitted using hallucinogens (in the form of "mushrooms" or "shrooms") from about 2017 to October 2022. The PHQ was submitted November 6 2022.

**Basis #2**

IV-B. Disqualification Based on False Statements or Omissions and/or Failure to Cooperate in the Application Process, as cited by Department:

1. Honesty and credibility are vital characteristics for a police officer to possess in order to ensure the integrity of police operations and investigations and to protect the public and maintain its trust in the police. Honest and complete answers to background questions asked of applicants during the application process, as well as full cooperation with the application process, are thus extremely important to the maintenance of the Chicago Police Department's fore and the integrity of its hiring process. Therefore, applicants are expected to cooperate with the City of Chicago and the Chicago Police Department in all matters relating to the processing of their applications for the position of Police Officer. Any applicant who fails to cooperate with the City of Chicago and its Police Department in processing his or her application for the position of Police Officer could be disqualified. Prohibited conduct within this category includes, but is not limited to: failure to provide any required information, failure to respond to requests for information in a timely manner; failure to respond to requests for interviews in a timely manner; failure to fully disclose all known information requested, whether it is beneficial or prejudicial to the applicant; making false or misleading statements in connection with any part of the application process; failing to include any material or relevant information requested by the City of Chicago or the Chicago Police Department; or failing to appear for scheduled appointments or processing sessions as directed." (Background Investigation Report, p. 3)

Department cited the following conduct, in summary:

The conduct alleged in Basis #1 above (Background Investigation Report, p. 3-4).

**Appeal, Response and Reply**

The following is a summary.

**Appeal.**

The totality of the text of the appeal that was sent as an email appears below:

“Hello, I’m [Name redacted] and I was recently disqualified by Chicago [P]olice Department due to admitting to using marijuana and shrooms. I was told by the examiner at the time to be truthful during the polygraph. I was completely truthful and was still disqualified. [F]rom the time of the polygraph to the present date I have not used any substances. I’m asking the board to reconsider their decision and give me a second chance.” (Appeal)

**Response.** In summary, Department iterated it stands on the reasons and bases set forth in the disqualification letter, and cited caselaw supporting its rights to disqualify. (Response)

**Reply.** There was no Reply.

**FINDINGS OF FACT**

All filings were timely.

Department provided its factual basis for the decision to disqualify Applicant and remove Applicant's name from the eligibility list for which Applicant was given the opportunity to file a written appeal specifying why the Department erred in the factual determinations underlying the Department's decision *and/or* provide additional facts directly related to the bases for disqualification.

Applicant used hallucinogens in the form of “mushrooms” a/k/a “shrooms” from 2017 through October 2022. The PHQ was submitted November 6, 2022. The scientific name for the street drug “mushrooms” a/k/a “shrooms” is “psilocybin” which is a Schedule I drug in Illinois (720 ILCS 570/204(d)(16)) and, unless it is otherwise authorized by law, it is illegal to possess

said drug. Each instance of possession is considered a single and separate violation of the law. (720 ILCS 570/402).

Applicant admitted the use of hallucinogens during the polygraph exam after he was told to be truthful. He also changed his answer on the PHQ to “yes,” for use of hallucinogens. It is unexplained why Applicant did not truthfully answer that he had used hallucinogens when he initially filled out the PHQ. It appears Applicant was not being truthful when he filled out the PHQ. Truthfully answering the PHQ is part of cooperating with the application process.

By a preponderance of the evidence, **Applicant DID NOT** provide sufficient additional facts directly related to and/or did not adequately specify why the Department erred in its factual determinations as to all bases presented. Conduct satisfying any one basis is enough to justify disqualification.

Applicant’s assertion that he was disqualified for marijuana use is inaccurate. Department did not allege any conduct involving marijuana (a/k/a “cannabis”).

### **CONCLUSIONS OF LAW**

Pursuant to the Municipal Code of Chicago (“MCC”) 2-84-030 the standard of review for appeals of disqualification and removal of an applicant’s name from the Eligibility List is that Applicant shall show by a preponderance of evidence that Department’s decision to remove the applicant from the Eligibility List was erroneous (MCC 2-84-035(c)). Therefore, according to the law and procedures, findings and recommendations are based upon whether Applicant’s Appeal shows by a preponderance of the evidence that Department erred in removing Applicant’s name from the Eligibility List, based upon the employment standards established by the Department.

Applicant’s assertion that he was truthful and was still disqualified is unpersuasive. Being

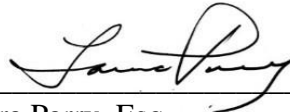
“truthful” is an expected behavior in the application process and is not a defense to other disqualifying conduct.

Applicant **DID NOT** show by a preponderance of the evidence that Department erred in the exercise of its decision to remove Applicant's name from the Eligibility List for the reasons stated herein.

**Recommendation**

Based on my findings and conclusions set forth above, I recommend that the decision to remove Applicant from the list of eligible applicants for the position of probationary police officer be **affirmed**.

Respectfully submitted,



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Laura Parry, Esq.  
Appeals Officer

Date: January 7, 2024

**POLICE BOARD DECISION**

The members of the Police Board of the City of Chicago have reviewed the Appeals Officer’s findings, conclusions, and recommendations.

The Police Board hereby adopts the Appeals Officer’s findings, conclusions, and recommendation by a vote of 9 in favor (Kyle Cooper, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Michael Eaddy, Ghian Foreman, and Andreas Safakas) to 0 opposed.

**NOW THEREFORE, IT IS HEREBY ORDERED** that the decision to remove [Name redacted] from the list of eligible applicants for the position of probationary police officer is **affirmed**.

This decision and order are entered by a majority of the members of the Police Board: Kyle Cooper, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, Michael Eaddy, Ghian Foreman, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18<sup>th</sup> DAY OF JANUARY, 2024.

Attested by:

/s/ KYLE COOPER  
President

/s/ MAX A. CAPRONI  
Executive Director