

**Fire Policy Committee  
Minutes  
May 21, 2010**

The Fire Policy Committee of the Board on Public Safety Standards and Training held a regular meeting at 9:00 a.m. on May 21, 2010 at the Oregon Public Safety Academy in Salem, Oregon. Chair Jim Whelan called the meeting to order at 9:00 a.m.

**Attendees**

**Committee Members:**

James Whelan, Oregon Volunteer Firefighters Association, Chair  
Kelly Bach, Oregon State Fire Fighters Council, Vice Chair  
William Lafferty, Oregon Department of Forestry  
Johnny Mack, Community College Fire Programs  
Mark Prince, Oregon Fire Chiefs Association  
Joe Seibert, Non-Management Firefighter  
Randy Simpson, Oregon State Fire Marshal  
Rod Smith, Oregon Fire Instructors Association  
Michelle Stevens, Oregon State Fire Marshal's Association

**Committee Members Absent:**

Larry Goff, Oregon Fire District Directors Association  
John Klum, Portland Fire & Rescue

**DPSST Staff:**

Eriks Gabliks, Director  
Julie Olsen-Fink, Fire Certification Supervisor  
Tina Diehl, Fire Certification Specialist  
Allison Sebern, Fire Certification Coordinator  
Mark Ayers, Fire Training Supervisor  
Marilyn Lorance, Standards & Certification Program Supervisor  
Kristen Turley, Standards & Compliance Coordinator  
Robin Mimms, Administrative Support Specialist  
Teresa Naugle, Private Security Program Manager

**Guest:**

Scott Stanton, Hermiston Fire District  
Ernie Loy, Retail Industry, Bi-Mart



**1. Minutes from February 19, 2010 meeting**

*Mark Prince moved to approve the minutes from the February 19, 2010 Fire Policy Committee meeting. Rod Smith seconded the motion. The motion carried in a unanimous vote.*

**2. Public Comment Received –NFPA 1002 Standard for Fire Apparatus Driver/Operator Qualifications, 2009 Edition, OAR 259-009-0005 and OAR 259-009-0062**

Presented by Julie Olsen-Fink

The Fire Policy Committee and Board on Public Safety Standards and Training previously reviewed and approved filing a proposed rule with the Secretary of State's Office to amend the rules relating to the NFPA 1002 Apparatus Operator standard. The proposed rules were filed with the Secretary of State's Office and opened for public comment.

**FINDING OF FACT:**

1. On February 9, 2010 a Notice of Rulemaking was filed with the Secretary of State's Office.
2. On March 1, 2010 the Notice of Proposed Rulemaking was published in the Secretary of State monthly publication.
3. During the month of March 2010, the Notice of Proposed rulemaking was posted on the Department of Public Safety Standards and Training's website.
4. On March 22, 2010 the public comment period closed.

The Department provided notice of a proposed rulemaking hearing to:

- a. The Secretary of State Office;
- b. Legislative Counsel;
- c. The agency interested parties' list; and
- d. The department's website

The Department received a total of one public comment regarding OAR 259-009-0005 and OAR 259-009-0062.

**PUBLIC COMMENT:**

John Shull  
Assistant Chief  
Scappoose Rural Fire District

Good Morning Julie,

I am submitting the following statements for Public Comment open March 01 - 22, 2010. The Blue text is from the proposal, and my comments are in Red.

**1. 259-009-005 Definitions:** (28) (32) "NFPA Driver-Operator" means a member of a fire service agency licensed to operate a fire service agency vehicle/apparatus in accordance

with the job performance requirements of NFPA 1002 and who have met the Entry Level Fire Fighter requirements. Fire service agency vehicle/apparatus operators are required to be certified at NFPA 1001 fire fighter I standard prior to driver operator duties. Additional requirements are involved for those driver operators of apparatus equipped with an attack or fire pump, aerial devices, a tiller, aircraft firefighting and rescue vehicles, wildland fire apparatus, and mobile water supply apparatus (tanker/tender).

In the standard, it is stated that the committee's intent for the standard is to be applied to all fire department vehicles. Drivers of vehicles not specifically addressed in Chapters 5 through 10 (e.g., staff or command vehicles, rescue or utility vehicles, and buses) are expected to meet the requirements of Chapter 4. There is no correlation to firefighter training in this JPR. Along with personnel tasked with actions to mitigate the emergency, we will need support personnel to drive the ambulance, provide traffic control for emergency responders, setup scene lighting and change air bottles for SCBA, Firefighter Rehab and more. These tasks do not require training on fire behavior, ventilation, hose, fire streams, and the intent of Firefighter I training to perform the job. However, we do need personnel to follow the District's policies and procedures, training program goals including driving, and perform as expected with the other companies that respond to requests for help from the District.

**Our recommendation is to separate Driver from the requirements of Entry Level Fire Fighter and NFPA 1001 Firefighter I training for certification as a Driver to provide a consistent and defensible standard of practice for training and certifying Drivers of non-firefighting apparatus.**

**2. 259-009-0005 Definitions** (47) NFPA Mobile Water Supply Apparatus” means a Fire Service Professional who has met the requirements of Fire Apparatus Driver/Operator as specified in NFPA 1002 Chapter 4 and the job performance requirements defined in NFPA 1002 Sections 10.1 and 10.2.

**We agree with this statement with the exception of Section 10.1, and recommend removing the requirements of NFPA 1001 Fire Fighter I to allow us to focus attention on training members to meet this JPR who might otherwise not be available due to the Fire Fighter I requirement.**

**3. 259-009-0062 Fire Service Personnel (proposed to delete)(I) An individual who completes the requirements of Chapter 4 and meets the requirements of Entry Level Fire Fighter (NFPA 1403) may be certified as a Driver.**

**We agree with this deletion to support our position on the previous Driver definition and promote the uniform training of all members.**

**4. 259-009-0062 Fire Service Personnel Certification (F) 10.1 General.** The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 10.1 and 10.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Mobile Water Supply Apparatus.

In reference to point # 2, this language discriminates against valuable department personnel who respond daily to our community's needs as part of the agency's response, in agency apparatus, and perform their duties according to the agency's training program and operating procedures to resolve the emergency.

For the same reasons we have explained before, there is no correlation for Firefighter I as a requirement for this job duty. The required JPRs are specific to the duties of this job and define the parameters of this standard which involve the driving, transporting, delivery, and water transfer in support of firefighting operations but are separate from those activities and do not require training on fire behavior, ventilation, fire control methods, fire streams, and the rest of Firefighter I training to perform the job.

**Our recommendation is to remove the requirement of NFPA 1001 Fire Fighter I certification to be certified as a Driver/Operator-Mobile Water Supply apparatus (NFPA Mobile Water Supply Operator).**

Thank you for the opportunity to be involved with this process and the progress development of the Oregon Fire Service to address the needs of our communities.

Respectfully,  
John Shull  
Assistant Chief  
Scappoose Rural Fire District

**STAFF ANALYSIS:**

1. Regarding public comment on 259-009-0005 (32) – Definitions: This was a staff error; this obsolete definition should be deleted, as a new definition is reflected in the bold proposed language. Staff is recommending this change be reflected in permanent rule.
2. Regarding public comment 259-009-0005 (47) – Definitions: The proposed rule incorporates this comment, as NFPA Fire Fighter I is no longer required for certification as a NFPA Mobile Water Supply Operator.
3. Regarding public comment 259-009-0062 – Fire Service Personnel: This comment concurs with the proposed changes in the 2009 standard.
4. Regarding public comment 259-009-0062(2)(b)(F) 10.1 General – The proposed rule incorporates this comment, as the 2009 NFPA standard includes the change recommended.

**STAFF RECOMMENDATION:**

Staff recommends omitting the obsolete definition 259-009-0005(32) as recommended in Chief Shull's comment, and that the remaining definitions be renumbered as required when the permanent rule is filed. The current proposed rule language incorporates the remainder of Chief Shull's recommendations.

**ACTION ITEM I:** Determine whether to incorporate the staff recommendation with the proposed amendments to OAR 259-009-0005.

**ACTION ITEM II:** Determine whether to recommend filing the proposed language for OAR 259-009-0005 with the Secretary of State as a permanent rule.

**ACTION ITEM III:** Determine whether to recommend filing the proposed language for OAR 259-009-0062 with the Secretary of State as a permanent rule.

*Randy Simpson moved that the committee incorporate the staff recommendation with the proposed amendments to OAR 259-009-0005, and recommends filing the proposed language for OAR 259-009-0005 and OAR 259-009-0062 with the Secretary of State as a permanent rule. Mark Prince seconded the motion. The motion carried in a unanimous vote.*

### **3. Revocation/Denial Case Review for Adam C. Bailey DPSST #4533**

Presented by Kristen Turley

#### **ISSUE:**

Should Adam C. BAILEY's Wildland Interface Fire Fighter and NFPA Fire Fighter I certifications be revoked and his NFPA Fire Instructor certification be denied based on discretionary disqualifying criminal convictions defined in OAR 259-009-0070(4)?

#### **BACKGROUND and OVERVIEW:**

*This case involves the following actions and processes related to BAILEY:*

*On March 1, 2005, BAILEY was hired by Toledo Fire Department.<sup>1</sup>*

*On July 5, 2007, BAILEY was granted a Wildland Interface Firefighter certification.<sup>2</sup>*

*On December 20, 2007, BAILEY was granted NFPA Firefighter I certification.<sup>3</sup>*

*On or about December 3, 2009, BAILEY applied for the NFPA Fire Instructor certification.<sup>4</sup>*

*A routine records check was completed on BAILEY and the following information was obtained:*

*LEDS identified BAILEY as a convicted Felon with an FBI number, and a multi source offender requiring fingerprints. A letter was sent to the agency and BAILEY requesting a fingerprint card.<sup>5</sup> The results received from Oregon State Police did not identify any out-of-state disqualifying convictions.*

*BAILEY was arrested for six counts of First Degree Rape, six counts of First Degree Sodomy, two counts of First Degree Sexual Abuse and six counts of Second Degree Sex*

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<sup>1</sup> Ex A1

<sup>2</sup> Ex A1

<sup>3</sup> Ex A1

<sup>4</sup> Ex A2

<sup>5</sup> Ex A3

*Abuse on August 30, 1996.<sup>6</sup> BAILEY was convicted of six counts of Second Degree Sex Abuse and three counts of Third Degree Sex Abuse on April 22, 1997. As a result of these convictions BAILEY was required to register as a sexual offender with the Oregon State Police Sex Offender Unit. Based on the date of the convictions, these are not discretionary disqualifying convictions, for purposes of certification.*

*On or about March 30, 2007, BAILEY was arrested for Criminal Mistreatment.<sup>7</sup> He was subsequently convicted of Third Degree Assault and Attempt to Commit Third Degree Assault on May 2, 2008. **Third Degree Assault is a discretionary disqualifying crime, for purposes of certification.**<sup>8</sup>*

*This conviction was compared to administrative rules relating to discretionary disqualifying criminal convictions for fire service personnel. This matter must be reviewed by the Fire Policy Committee (FPC).*

*On February 24, 2010, TURLEY mailed BAILEY a letter advising him that his case would be heard before the FPC and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent regular mail. As a policy, DPSST also provides a Stipulated Order Revoking and Denying Certification to individuals whose cases are to be heard by a Policy Committee. Some individuals elect to sign a Stipulated Order Revoking Certification(s), which ends the denial or revocation process.<sup>9</sup>*

*On or about March 29, 2010, TURLEY received a letter from BAILEY along with letters of support for the FPC's consideration.<sup>10</sup>*

## **DISCUSSION:**

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct or criminal convictions that require denial or revocation. For all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

## **STANDARD OF PROOF:**

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

## **DISCRETIONARY DISQUALIFYING MISCONDUCT:**

OAR 259-009-0070(4) specifies discretionary disqualifying conduct which includes criminal convictions and falsification issues. Subsection 4 of the rule identifies a list of discretionary disqualifying crimes that must be reviewed by the FPC.

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<sup>6</sup> Ex A7

<sup>7</sup> Ex A9

<sup>8</sup> Ex A10

<sup>9</sup> Ex A4

<sup>10</sup> Ex A11

In OAR 259-009-0070(4)(b) The Department, through the Fire Policy Committee and Board, has defined core values that are integral to the fire service profession. These values are:

- (a) Category I: **Honesty**. Honesty includes fairness and straightforwardness of conduct; integrity. Adherence to the facts; freedom from subterfuge or duplicity; truthfulness and sincerity.
- (b) Category II: **Professionalism**. Professionalism includes the conduct, aims, or qualities that characterize or mark a profession or a professional person; extreme competence in an occupation or pursuit.
- (c) Category III: **Justice**. Justice includes just treatment, the quality or characteristic of being just, impartial, or fair; integrity and honesty.

OAR 259-009-0070(4)(c) provides that, pursuant to ORS 181.662(3)(b), the Department has determined that, in the absence of a determination to the contrary by the Fire Policy Committee and Board, a Fire Service Professional or Instructor who has been convicted of the *[listed]* crimes has violated the core values of the fire service profession and may not be fit to receive or hold certification.

*Staff Explanation: The above rule creates a presumption that if an individual has been convicted of any of the discretionary crimes, they have violated the core values of the fire service profession and may not be fit to receive or hold certification. To determine that the applicant may hold certification means that the FPC has determined that in the case of the subject individual, these convictions do not violate the core values.*

OAR 259-009-0070(5) provides that upon determination to proceed with the revocation and/or denial of a fire service professional's or instructor's certification based on discretionary disqualifying misconduct, the Fire Policy Committee and Board will determine an initial minimum period of ineligibility to apply for certification. The initial minimum period of ineligibility will range from 30 days to 7 (seven) years.

OAR 259-009-0070(7)(d) provides that the FPC will consider aggravating and mitigating circumstances, which include:

- (A) When the conduct occurred in relation to the fire service professional's or instructor's service as a fire service professional or instructor (i.e., before, during, after);
- (B) Whether the fire service professional or instructor served time in prison/jail; and if so, for how long;
- (C) Whether restitution was involved, and if so, whether the fire service professional or instructor met all obligations;
- (D) Whether the fire service professional or instructor was on parole or probation, and if so, when the parole or probation ended;

(E) Whether the fire service professional or instructor has been convicted of the same conduct more than once, and if so, over what period of time;

(F) Whether the conduct involved domestic violence;

(G) Whether the fire service professional or instructor self reported the conduct;

(H) Whether the conduct involved dishonesty, fraud, deceit, or misrepresentation;

(I) Whether the conduct was prejudicial to the administration of justice;

(J) Whether the conduct adversely reflects on a fire service professional's or instructor's fitness to perform as a fire service professional or instructor; and

(K) Whether the conduct makes the fire service professional or instructor otherwise unfit to render effective service because of the agency's or public's loss of confidence that the fire service professional or instructor possesses the core values integral to the fire service profession.

### **ACTION REQUESTED:**

#### **Part One**

Staff requests the Fire Policy Committee review the matter and make a recommendation to the Board whether or not to revoke and/or deny BAILEY's certifications by votes on the following:

1. By vote, the Fire Policy Committee *adopts/does not adopt* the Staff report as the record on which their recommendations are based.
2. By discussion and consensus:
  - a. Identify the conduct that is at issue
  - b. The conduct *does/does not* violate the core value of honesty.
  - c. The conduct *does/does not* violated the core value of professionalism.
  - d. The conduct *does/does not* violate the core value of justice.
3. By discussion and consensus, the Fire Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Fire Policy Committee finds that BAILEY's conduct *does/does not* rise to the level to warrant revocation and denial of his certification(s), and therefore recommends to the Board that BAILEY's certifications be *revoked and denied/not revoked and denied*.

#### **Part Two (to be considered if denial and revocation are recommended)**

According to OAR 259-009-0070(5) upon determination to proceed with the revocation and/or denial of a fire service professional's or instructor's certification based on discretionary disqualifying misconduct, the Fire Policy Committee and Board will determine an initial minimum period of ineligibility to apply for certification. The initial minimum period of ineligibility will range from 30 days to 7 (seven) years.

By vote, the Fire Policy Committee recommends a minimum initial period of ineligibility of *time to be determined*.

**Mark Prince moved that the committee adopts the staff report as the record on which their recommendations are based. Kelly Bach seconded the motion. The motion carried unanimously.**

By discussion and consensus:

- a. Identify the conduct that is at issue:  
*Third Degree Assault is a discretionary disqualifying crime, for purposes of certification.*
- b. The conduct **did not** violate the core value of honesty.
- c. The conduct **did not** violate the core value of professionalism.
- d. The conduct **did not** violate the core value of justice.

By discussion and consensus, the Fire Policy Committee must identify and consider any mitigating and aggravating circumstances.

- The committee identified as mitigating circumstances the letters of support, the fact that he has custody of one of the children, the arrest was initiated by an upset ex-wife and his conduct was “felony stupid,” but not necessarily a minimum standards violation.

**Rod Smith moved that the committee finds that BAILEY’s conduct does not rise to the level to warrant revocation and denial of his certification(s), and therefore recommends to the Board that BAILEY’s certifications not be revoked and denied. Michelle Stevens seconded the motion. The motion carried unanimously.**

#### **4. Revocation/Denial Case Review for Scott E. Henderson DPSST #26407**

Presented by Kristen Turley

##### **ISSUE:**

Should Scott E. HENDERSON’s NFPA Driver/Apparatus Operator and NFPA Fire Fighter certifications be denied based on discretionary disqualifying criminal convictions defined in OAR 259-009-0070(4)?

##### **BACKGROUND and OVERVIEW:**

*This case involves the following actions and processes related to HENDERSON:*

*On August 12, 2008, HENDERSON was hired by Maupin Fire Department.<sup>11</sup>*

*On October 16, 2008, HENDERSON was hired by the Juniper Flat RFPD.<sup>12</sup>*

*On or about February 3, 2010, HENDERSON applied for the NFPA Driver/Apparatus Operator and NFPA Firefighter certifications.<sup>13</sup>*

*A routine records check was completed on HENDERSON and the following information was obtained:*

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<sup>11</sup> Ex A1

<sup>12</sup> Ex A1

<sup>13</sup> Ex A2-A3

*On December 20, 2003, HENDERSON was arrested for Unauthorized Use of a Motor Vehicle, a Felony crime, pled guilty and received a diversion in 2004.<sup>14</sup>*

*On June 12, 2004, HENDERSON was arrested for Reckless Driving and was convicted of this crime.<sup>15</sup> OJIN report not provided as sentencing took place in a Municipal Court. Reckless Driving is not a discretionary disqualifying crime for purposes of certification. Based on HENDERSON's Reckless Driving conviction, his 2004 Diversion for the Unauthorized Use of a Motor Vehicle was revoked, he was subsequently convicted of this crime, and he was placed on probation.<sup>16</sup> **Unauthorized Use of a Motor Vehicle is a discretionary disqualifying crime, for purposes of certification.***

*On January 20, 2005, HENDERSON was arrested for Driving While Suspended and convicted of this crime.<sup>17</sup> HENDERSON violated his probation by this misconduct and it resulted in a probation extension.<sup>18</sup> **Driving While Suspended is a discretionary disqualifying crime, for purposes of certification.***

*On July 1, 2005, HENDERSON was again arrested for Driving While Suspended and was convicted of this crime.<sup>19</sup> HENDERSON again violated his probation by this misconduct; his probation was revoked and he received jail time.<sup>20</sup> **Driving While Suspended is a discretionary disqualifying crime, for purposes of certification.***

*On April 26, 2008, HENDERSON was arrested for Felon in Possession of a Firearm and was convicted.<sup>21</sup> **Felon in Possession of a Firearm is a discretionary disqualifying crime, for purposes of certification.***

*This conviction was compared to administrative rules relating to discretionary disqualifying criminal convictions for fire service personnel. This matter must be reviewed by the Fire Policy Committee (FPC).*

*On February 24, 2010, TURLEY mailed HENDERSON a letter advising him that his case would be heard before the FPC and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent regular mail. As a policy, DPSST also provides a Stipulated Order Revoking and Denying Certification to individuals whose cases are to be heard by a Policy Committee. Some individuals elect to sign a Stipulated Order Revoking Certification(s), which ends the denial or revocation process.<sup>22</sup>*

## **DISCUSSION:**

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct or criminal convictions that require denial or revocation. For all

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<sup>14</sup> Ex A11, March 15, 2004 placed on Diversion

<sup>15</sup> Per LEDS Convicted of Reckless Driving on June 14, 2004

<sup>16</sup> Ex A13, June 23, 2004 Convicted of Unauthorized Use of a Motor Vehicle

<sup>17</sup> Ex A14 Convicted February 4, 2005

<sup>18</sup> Ex A11

<sup>19</sup> Ex A17 Convicted January 11, 2006

<sup>20</sup> Ex A11

<sup>21</sup> Ex A19 Convicted on July 23, 2008

<sup>22</sup> Ex A10

other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

**STANDARD OF PROOF:**

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

**DISCRETIONARY DISQUALIFYING MISCONDUCT:**

OAR 259-009-0070(4) specifies discretionary disqualifying conduct which includes criminal convictions and falsification issues. Subsection 4 of the rule identifies a list of discretionary disqualifying crimes that must be reviewed by the FPC.

In OAR 259-009-0070(4)(b) The Department, through the Fire Policy Committee and Board, has defined core values that are integral to the fire service profession. These values are:

- (a) Category I: **Honesty**. Honesty includes fairness and straightforwardness of conduct; integrity. Adherence to the facts; freedom from subterfuge or duplicity; truthfulness and sincerity.
- (b) Category II: **Professionalism**. Professionalism includes the conduct, aims, or qualities that characterize or mark a profession or a professional person; extreme competence in an occupation or pursuit.
- (c) Category III: **Justice**. Justice includes just treatment, the quality or characteristic of being just, impartial, or fair; integrity and honesty.

OAR 259-009-0070(4)(c) provides that, pursuant to ORS 181.662(3)(b), the Department has determined that, in the absence of a determination to the contrary by the Fire Policy Committee and Board, a Fire Service Professional or Instructor who has been convicted of the *[listed]* crimes has violated the core values of the fire service profession and may not be fit to receive or hold certification.

*Staff Explanation: The above rule creates a presumption that if an individual has been convicted of any of the discretionary crimes, they have violated the core values of the fire service profession and may not be fit to receive or hold certification. To determine that the applicant may hold certification means that the FPC has determined that in the case of the subject individual, these convictions do not violate the core values.*

OAR 259-009-0070(5) provides that upon determination to proceed with the revocation and/or denial of a fire service professional's or instructor's certification based on discretionary disqualifying misconduct, the Fire Policy Committee and Board will determine an initial minimum period of ineligibility to apply for certification. The initial minimum period of ineligibility will range from 30 days to 7 (seven) years.

OAR 259-009-0070(7)(d) provides that the FPC will consider aggravating and mitigating circumstances, which include:

- (A) When the conduct occurred in relation to the fire service professional's or instructor's service as a fire service professional or instructor (i.e., before, during, after);
- (B) Whether the fire service professional or instructor served time in prison/jail; and if so, for how long;
- (C) Whether restitution was involved, and if so, whether the fire service professional or instructor met all obligations;
- (D) Whether the fire service professional or instructor was on parole or probation, and if so, when the parole or probation ended;
- (E) Whether the fire service professional or instructor has been convicted of the same conduct more than once, and if so, over what period of time;
- (F) Whether the conduct involved domestic violence;
- (G) Whether the fire service professional or instructor self reported the conduct;
- (H) Whether the conduct involved dishonesty, fraud, deceit, or misrepresentation;
- (I) Whether the conduct was prejudicial to the administration of justice;
- (J) Whether the conduct adversely reflects on a fire service professional's or instructor's fitness to perform as a fire service professional or instructor; and
- (K) Whether the conduct makes the fire service professional or instructor otherwise unfit to render effective service because of the agency's or public's loss of confidence that the fire service professional or instructor possesses the core values integral to the fire service profession.

**ACTION REQUESTED:**

**Part One**

Staff requests the Fire Policy Committee review the matter and make a recommendation to the Board whether or not to *deny* HENDERSON's certifications by votes on the following:

1. By vote, the Fire Policy Committee *adopts/does not adopt* the Staff report as the record on which their recommendations are based.
2. By discussion and consensus:
  - a. Identify the conduct that is at issue
  - b. The conduct *does/does not* violate the core value of honesty.
  - c. The conduct *does/does not* violated the core value of professionalism.
  - d. The conduct *does/does not* violate the core value of justice.

3. By discussion and consensus, the Fire Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Fire Policy Committee finds that HENDERSON's conduct *does/does not* rise to the level to warrant **denial** of his certification(s), and therefore recommends to the Board that HENDERSON's certifications be **denied/not denied**.

**Part Two (to be considered if denial is recommended)**

According to OAR 259-009-0070(5) upon determination to proceed with the revocation and/or denial of a fire service professional's or instructor's certification based on discretionary disqualifying misconduct, the Fire Policy Committee and Board will determine an initial minimum period of ineligibility to apply for certification. The initial minimum period of ineligibility will range from 30 days to 7 (seven) years.

By vote, the Fire Policy Committee recommends a minimum initial period of ineligibility of time to be determined.

***Kelly Bach moved that the committee adopts the staff report as the record on which their recommendations are based. Johnny Mack seconded the motion. The motion carried unanimously.***

By discussion and consensus:

- a. Identify the conduct that is at issue:  
*Unauthorized Use of a Motor Vehicle, Driving While Suspended x 2, and Felon in Possession of a Firearm are discretionary disqualifying crimes, for purposes of certification.*
- b. The conduct **did** violate the core value of honesty.
- c. The conduct **did** violate the core value of professionalism.
- d. The conduct **did** violate the core value of justice.

By discussion and consensus, the Fire Policy Committee must identify and consider any mitigating and aggravating circumstances.

- The committee identified as aggravating circumstances the repeated Driving While Suspended convictions, his blatant disregard for the law, and how he was knowingly untruthful in his contact with law enforcement. They noted that HENDERSON *knew* he was a felon.

***Mark Prince moved that the committee finds that HENDERSON'S conduct does rise to the level to warrant denial of his certification(s), and therefore recommends to the Board that HENDERSON's certifications be denied. Randy Simpson seconded the motion. The motion carried unanimously.***

***Mark Prince moved that the committee recommends to the Board that the initial minimum period of ineligibility to re-apply for certification would be the maximum period of seven (7) years. Randy Simpson seconded the motion. The motion carried unanimously.***

**ACTION ITEM:** *Kelly Bach suggested taking INTEGRITY and HONESTY out of the JUSTICE definition. Also, taking FAIRNESS out of the HONESTY definition. Direction was given to Marilyn Lorange to bring a proposed rule change to the next FPC meeting.*

## 5. **Round Table/Staff Update**

Julie Olsen-Fink reported:

- Work that was conducted with the Wildland Interface Task Force and the NFPA Fire Officer Task Force will be going out for public comment in June.
- The task forces coming up in July will be Rescue Technician and Fire Ground Leader.
- A public notice will be going out in June for openings of positions to sit on the NFPA Airport Fire Fighter and Maritime task forces. Those will take place in September.
- The OS1 position has been filled effective June 2, 2010. Fire Certification will be back up to full staff with the addition of Chad Goffin.

Mark Ayers reported:

- Fire Training had a very successful recruitment for the Public Safety Training Specialist 1 position. Went to background and the day background was completed he accepted a job with another agency. The recruitment will continue to fill that position, however four of our staff were trained in delivery of the Skid Avoidance Program.
- We are committed to the OVFA conference in Hermiston/Pendleton in June.
- Aggressive training going on the week of July 11<sup>th</sup> in Newport, Lincoln City, Siletz and Waldport areas.
- Maryland Fire and Rescue Institute (MFRI) is coming to DPSST to deliver their Fire Officer I class (Train the Trainer) the week of June 7<sup>th</sup>.
- Fire Fighter I Academy, with 29 people, is the first to be held here at DPSST. Started the first week in March and runs every third week Saturday's and Sundays and ends with the formal graduation on July 31<sup>st</sup>. Working with Chemeketa and the lead instructor is John West. Very positive feedback.

Director Eriks Gabliks discussed DPSST updates:

- **IMT**  
DPSST has been working with Oregon Emergency Management on a grant that would allow DPSST to offer all of the "L" series courses that are required for the Incident Management Team (IMT) standards under the new Department of Homeland Security (DHS) standards. These classes would be offered at the Oregon Public Safety Academy and on a regional basis as funds permit. The DPSST IMT Task Force continues to function but has been on-hold as DHS completes some of its implementation guidelines. This is all-hazard/all-risk and DPSST is working with allied organizations such as public health, transportation, and others.

- **BPSST Transition**  
 Eriks announced that after serving two terms, and six years, both Kelly Bach and Jim Whelan are termed-out and by statute cannot serve a third term on the Board on Public Safety Standards and Training. The Oregon State Fire Fighters Council has nominated Joe Siebert to serve as Kelly's replacement and the Oregon Volunteer Firefighters Association has nominated Scott Stanton of the Hermiston Fire Department to serve as Jim's replacement. Both Joe and Scott are scheduled for a Senate Confirmation Committee Hearing on May 24, 2010. At the next meeting the Fire Policy Committee will need to select a new Chair and Vice-Chair.
- **DPSST Budget**  
 DPSST held a stakeholder conference call a number of weeks ago that included the BPSST Executive Board and Presidents and Executives of various stakeholder groups. The meeting was to discuss a 25% budget reduction exercise that needs to be submitted for programs funded by the Criminal Fines and Assessments Account (CFAA) and a 10% budget reduction that needs to be submitted for the fire training and certification program which is funded by the Fire Insurance Premium Tax (FIPT). The meeting was to solicit stakeholder input before the DPSST leadership team began its work. Eriks pledged to keep the FPC and others informed on the process as more information is developed.
- **Fire Training Classes at OPSA**  
 Eriks shared that two fire service classes recently had to be cancelled at the Oregon Public Safety Academy because of low enrollment numbers. The Fire Service 20/20 Diversity Class and the Firefighter Near-Miss Reporting System Train the Trainer class were both cancelled. Eriks mentioned that this was not unique and other states and organizations were experiencing similar circumstances due to the economy and travel restrictions implemented by agencies as cost savings measures.
- **Fire Service Reputation Management**  
 Eriks shared a report that was recently released by the Cumberland Valley Firefighters Association regarding Fire Service Reputation Management. DPSST has been contacted by a number of organizations regarding the criminal convictions program. Oregon is only one of two states in the nation that has implemented standards for certification which address criminal conduct.
- **Fire Behavior Class**  
 As a follow-up to the proposed standards for Fire Officer, DPSST has issued a grant to the Oregon Fire Instructors Association (OFIA) to develop a turn-key program for fire officers on fire behavior and combustion. The program will include instructor guide, student guide, PowerPoint, and testing tool and will be able to be delivered statewide.
- **State Fire Defense Board**  
 Eriks shared with the FPC that the State Fire Defense Board adopted a policy at its April 2010 meeting that all firefighters being mobilized for both structural or wildland interface deployments will need to have DPSST certification. State Fire Marshal Randy

Simpson gave some follow-up information on this change. Eriks advised the FPC that he would forward a copy of the changes via a separate e-mail in a few days.

# # #

Kelly Bach asked Eriks if there was any update on the current news stories regarding the BOLI investigation. Eriks started by saying that he could only share a very limited amount of information because of pending legal matters. DPSST has cooperated fully with the Oregon Department of Justice and BOLI since it was made aware of the situation. DPSST continues to work with both organizations to address the current issues which have been in the newspaper. Eriks cautioned folks not to make any judgments and to remember that in every case there are two sides of the story and folks needed to wait until the legal process has a chance to move forward. The former Director John Minnis did submit a stipulated order through which he surrendered his police officer certification to the state. Eriks did state that this case is unique in that BOLI has taken a different tact than it has in the past through which it has publically issued a statement with a proposed dollar value for the case. The concern is that this change in public policy could potentially impact all public employers. In closing Eriks reiterated to the FPC that this is an isolated incident within the organization and that the agency has great employees who care for the work that is at hand and enjoy providing public safety personnel with training and certification. The employees of the agency have not skipped a beat during this event and continue to meet and exceed our customer's needs.

Tina Diehl reported:

- Maintenance Re-Certification packets will be mailed 6/1/10 to 291 agencies. They need to be returned by 12/31/10.

Kelly Bach expressed his thanks that during his time on the FPC that he has learned a lot about how the whole process worked and how to work with everyone in this group. Some really good work has been done and everyone here should be proud. The people at DPSST are amazing and very professional. Good job and I've really enjoyed working with everyone.

Jim Whelan thanked everyone. Everyone has been very kind. It's been a great time learning and seeing a lot. Staff has been wonderful to work with.

The next meeting is 8/27/10 and the first line of business will be to elect a new chair and vice-chair.

Meeting adjourned at 10:28 a.m.