

OREGON DPSST
ETHICS BULLETIN
Volume No. 61



The Board on Public Safety Standards and Training (BPSST) has the legislative mandate to establish and enforce minimum standards for all law enforcement officers, fire service professionals, telecommunicators and emergency medical dispatchers in the state. This requirement also defines the procedure for the Department and Board to use when denying or revoking certification of an individual who has fallen below the minimum standards.

The Ethics Bulletin is published to provide insight into the types of misconduct that could result in revocation or denial of certification. The following cases have resulted in consideration of **revocation or denial** of certifications by DPSST in **October 2008**.

The Department continues to ensure that certified public safety officers and those seeking certification who abuse the public's trust will be held accountable for their actions.

October Statistics

Cases Opened	38	Of the 40 Cases Closed:	
Cases Closed	40	Revoked	6
Cases Pending	174	Denied	0
		No Action	34

Officer A's integrity was questioned when it came to light that after he was not able to pass the visual acuity examination to become a certified police officer, he contacted his brother to take the exam on his behalf. Officer A admitted to two investigators that his brother had taken the exam for him, but asserted that he did not use the results because he was finally able to pass the exam on his own. Later, when interviewed by a State investigator, Officer A asserted that although he had asked his brother to take the exam for him, the brother never actually did so. When confronted with the conflicting accounts, Officer A voluntarily signed a Stipulated Order Revoking Certification. Officer A's misconduct ended his 8-year career.
Officer A's Basic Police Certification was Revoked.

Officer B voluntarily signed a Stipulated Order Revoking Certifications after an internal investigation revealed he had violated agency policies and engaged in conduct unbecoming an officer. Officer B's misconduct ended his 34-year career.
Officer B's Basic, Intermediate, Advanced, Supervisory Police and Instructor Certifications were Revoked.

PLEASE DISSEMINATE THIS INFORMATION TO ALL PUBLIC SAFETY OFFICERS

www.dpsst.state.or.us 503-378-2305 – October 2008 Ethics Bulletin

Page 1 of 3

Fire Service Professional C was discharged for cause after an internal investigation revealed that he had demonstrated a pervasive pattern of dishonesty. Among other acts of misconduct was his failure to disclose a criminal conviction on his application for employment. Fire Service Professional C was issued a Notice of Intent to Revoke Certifications. He did not make a timely request for a hearing and was subsequently issued a Default Final Order Revoking Certifications. Fire Service Professional C's misconduct ended his 7-year career.

Fire Service Professional C's Wildland Interface Fire Fighter, NFPA Fire Fighter I, NFPA Fire Fighter II, First Responder Operations, NFPA Driver, NFPA Pumper Operator and NFPA Aerial Operator Certifications were Revoked.

Officer D was convicted of Manufacturing Marijuana and Supplying Contraband, mandatory disqualifying offenses. Officer D was issued a Notice of Intent to Revoke Certification. She did not make a timely request for a hearing and was subsequently issued a Default Final Order Revoking Certification. Officer D's misconduct ended her 10-year career.

Officer D's Basic Corrections Certification was Revoked.

Officer E was discharged for cause after an internal investigation revealed that he had inappropriate conduct with a female citizen during a ride-along. Officer E used his position, agency time and equipment to pursue personal relationships. Officer E also violated a restraining order and failed to follow agency orders and directives. Officer E was issued a Notice of Intent to Revoke Certification. He did not make a timely request for a hearing and was subsequently issued a Default Final Order Revoking Certification. Officer E's misconduct ended his 12-year career.

Officer E's Basic Police Certification was Revoked.

Fire Service Professional F was convicted of First Degree Arson, a mandatory disqualifying offense. Fire Service Professional F was issued a Notice of Intent to Revoke Certifications. He did not make a timely request for a hearing and was subsequently issued a Default Final Order Revoking Certifications. Fire Service Professional F's misconduct ended his 5-year career.

Fire Service Professional F's NFPA Fire Instructor I Certification was Revoked.

In the monthly Ethics Bulletins we periodically answer some of the more frequently asked professional standards questions we hear from constituents. This month we will answer a couple of common questions related to settlement agreements.

What, if any, impact does an employment Settlement Agreement at the time of resignation have on whether the State will review my case for possible denial or revocation?

A Settlement Agreement is an agreement between an employer and an employee. Typically a Settlement Agreement is reached as a part of a resignation. Often the resignation occurs during or after an internal investigation that may have led to discipline, including termination. Occasionally the settlement follows a termination and resolves either a grievance or related claims. Settlement Agreements generally include what the employee and the employer agree to with regard to future employment inquiries and the resolution of current or future litigation. Sometimes Settlement Agreements contain terms that attempt to control the amount and type of information that an employer may report to DPSST.

Because DPSST as a licensing or certifying body is not a party to such Settlement Agreements, it is not bound by their terms. Under ORS 181.675, public safety agencies are *required* to provide DPSST with access to the personnel records of an employee or former employee if the request is made in connection with an investigation by DPSST into the employee's qualifications for certification. The statute provides immunity for employers from civil liability from the disclosure or its consequences. Therefore, although an employer may agree in a Settlement Agreement not to provide DPSST with information related to an internal investigation, the employer is required by law to produce its personnel records when DPSST asks for the information and to accurately report to DPSST what has occurred.

Is an employer required to report accurately to DPSST the factual circumstances of any job separation?

The employer is required under OAR 259-008-0020(2) to report all personnel actions to DPSST within ten (10) business days, using a DPSST Form F-4 Personnel Action Report. This form is not an employment document, but a required report to the certifying body. The F-4 is a public record. It is unlawful to create a false public record [ORS 165.013(a)(E)].

In addition to the general penalties for creating a false public record, ORS 181.662 provides that falsifying any information submitted to DPSST or the Board is grounds for revocation. The agency head, or representative, who signs the document, must attest to the verification of the information on the form; their signature acknowledges the penalty for falsification. Employers must ensure that the information reported on the F-4 is complete and accurate. Any intentional mischaracterization of the facts, whether pursuant to a Settlement Agreement or otherwise, may result in a determination that the Form F-4 Personnel Action Report was falsely completed in an attempt to avoid an investigation by DPSST into the circumstances underlying the resignation. Such conduct may also be construed to constitute the offense of obstruction of governmental administration (ORS 162.235).

PLEASE DISSEMINATE THIS INFORMATION TO ALL PUBLIC SAFETY OFFICERS