

Fire Policy Committee Minutes May 22, 2013

The Fire Policy Committee of the Board on Public Safety Standards and Training held a regular meeting at 9:00 a.m. on May 22, 2013, at the Oregon Public Safety Academy in Salem, Oregon. Vice Chair Jeff Jones called the meeting to order at 9:00 a.m.

Attendees

Committee Members:

Alan Ferschweiler, Oregon State Fire Fighters Council – via teleconference
Erin Janssens, Portland Fire & Rescue – via teleconference
Dave Jones, Oregon Fire District Directors Association
Jeff Jones, Oregon Fire Chiefs Association, Vice Chair
Jamie Paul, Oregon Department of Forestry
Dan Petersen, Oregon Fire Instructors Association

Committee Members Absent:

Johnny Mack, Community College Fire Programs
Joe Seibert, Non-Management Firefighter, Chair
Scott Stanton, Oregon Volunteer Firefighters Association
Mark Wallace, Oregon State Fire Marshal

DPSST Staff:

Eriks Gabliks - Director
Julie Olsen-Fink, Fire Certification Supervisor
Tina Diehl, Fire Certification Specialist
Allison Sebern, Fire Certification Coordinator
Barbara Slinger, Fire Certification Support Specialist
Kristen Turley, Standards & Compliance Coordinator
Linsay Hale, Compliance Coordinator
Julie Johnson, Private Security Compliance Specialist

Guests:

Dave Blakely, Jackson County Fire District No 3/RITA
Robert Mock, Siletz Valley Fire District

1. **Minutes from February 27, 2013 meeting**

Dan Peterson moved to approve the minutes from the February 27, 2013 Fire Policy Committee meeting. Dave Jones seconded the motion. The motion carried in a unanimous vote.

2. **Revisions to OAR 259-009-0005 & OAR 259-009-0062**

NFPA 1003 Fire Fighter Professional Qualifications
Presented by Julie Olsen-Fink

BACKGROUND:

The Fire Certification Program of the Department of Public Safety Standards and Training (DPSST) was authorized by the Fire Policy Committee (FPC) to review the NFPA 1001 Standard for Fire Fighter Professional Qualification, 2013 Edition. At the direction of Chair Joe Siebert, public notification was posted for those fire service professionals who had an interest in participating.

TASK FORCE MEMBERS:

Richard Cearns (Chair)	Black Butte Ranch Rural Fire Protection District
Dave Blakely (Vice Chair)	Jackson County Fire District No. 3
Don Willis	Sunriver Service District Fire Department
Terry Riley	Marion County Fire District No. 1
Jeff Pricher	Scappoose Fire District
Jake Campbell	Redmond Fire and Rescue (not in attendance)
Jay Alley	Stayton Fire District
Bill Klein	Chemeketa Community College

DPSST STAFF:

Eriks Gabliks	Director
Julie Olsen-Fink	Fire Certification Supervisor
Allison Sebern	Fire Certification Coordinator
Barbara Slinger	Fire Certification Support Specialist

The Task Force met and concluded their work on April 16, 2013 at the Oregon Public Safety Academy. The Task Force unanimously determined, after reviewing the 2008 and 2013 Editions, it would benefit Oregon fire service professionals to adopt the 2013 standard and remain current with the NFPA standards.

RECOMMENDATION:

The NFPA Fire Fighter Task Force recommends the standard be approved as there were no substantive changes noted between the two standards that would create issues for the Oregon fire service. The Task Force is recommending their request be presented to the Board for final approval.

The following language for OAR 259-009-005 and OAR 259-009-0062 contains recommended deletions (~~striketrough~~) and additions (**bold and underlined text**). For ease of review, only the recommended new language has been included. (If proposed language is adopted subsequent sections of the current rule will be renumbered as required).

OAR 259-009-0005

Definitions

~~(12) "Entry Level Fire Fighter" means an individual at the beginning of his/her fire service involvement. During the probationary period an entry level fire fighter is in a training and indoctrination period under constant supervision by a more senior member of a fire service agency.~~

(15) "Fire Fighter I" means a person at the first level of progression who has demonstrated the knowledge and skills to function as an integral member of a fire-fighting team under direct supervision in hazardous conditions.

(16) "Fire Fighter II" means a person at the second level of progression who has demonstrated the skills and depth of knowledge to function under general supervision.

OAR 259-009-0062

Fire Service Personnel Certification

(1) A fire service professional affiliated with an Oregon fire service agency may be certified by satisfactorily completing the requirements specified in section (2) of this rule: through participation in a fire service agency training program accredited by the Department; or through a course certified by the Department; or by evaluation of experience as specified in OAR 259-009-0063. The Department may certify a fire service professional who has satisfactorily completed the requirements for certification as prescribed in section (2) of this rule, including the Task Performance Evaluations (TPE) if applicable.

(2) The following standards for fire service personnel are hereby adopted by reference:

(a) The provisions of the NFPA Standard 1001, ~~2008~~ **2013** Edition, entitled "Fire Fighter Professional Qualifications";

(A) "Authority having jurisdiction" means the Department of Public Safety Standards and Training.

(B) Delete section 1.3.1.

NOTE: This references NFPA 1500.

(C) Delete section 2.2.

NOTE: This references NFPA 1500 and 1582.

(D) ~~Entry Level Fire Fighter means an individual trained to the requirements of Section 2-1 Student Prerequisites, NFPA Standard 1403, 1997 Edition, entitled "Live Fire Training Evolutions" and the applicable safety requirements adopted by OR OSHA. An individual trained to this level and verified so by the agency head is qualified to perform live fire training exercises and to perform on the emergency scene under constant supervision. An Entry Level Fire Fighter should be encouraged to complete Fire Fighter I training within one year.~~ **For certification as Fire Fighter II, the applicant must be certified at NFPA 1001 Fire Fighter I as defined by the Department and meet the job performance requirements defined in Sections 6.1 through 6.5.5 of this Standard.**

(E) Before an applicant can qualify for certification, the applicant must complete either a Task Performance Evaluation or a Department approved Task Book for Fire Fighter I and Fire Fighter II, signed off by the Agency Head or Training Officer.

ACTION ITEM I: Determine whether to recommend approval to the Board to file the proposed rule language for OAR 259-009-0005 and OAR 259-009-0062 with the Secretary of State as proposed rules.

ACTION ITEM II: Determine whether to recommend filing the proposed language for OAR 259-009-0005 and OAR 259-009-0062 with the Secretary of State as permanent rules if no comments are received.

ACTION ITEM III: Pursuant to ORS 183.333, determine whether there is a significant fiscal impact on small business. *No fiscal impact by consensus.*

Dan Peterson moved to recommend to the Board filing the proposed language for OAR 259-009-0005 and OAR 259-009-0062 with the Secretary of State as proposed rules and as permanent rules if no comments are received. Jamie Paul seconded the motion. The motion carried in a unanimous vote.

3. **Revisions to OAR Chapter 259, Division 009**

Housekeeping Changes

Presented by Julie Olsen-Fink

ISSUE: The entire fire rule set was reviewed by staff for typographical errors, ambiguous language, consistency, and clarity.

This proposed rule repeals OAR 259-009-0030 (Fire Policy Committee) to eliminate redundancy. The requirements of the Fire Policy Committee can be found in ORS 181.637.

The following language for OAR Chapter 259, Division 009 contains recommended deletions (~~striketrough~~) and additions (**bold and underlined text**). For ease of review, only the revised text is included.

OAR 259-009-0000

Policies and Objectives

(b) The Board and Department ~~shall~~ **will** promote the safety, efficiency, effectiveness, self-sufficiency and competence of fire service professionals.

(c) The Board and Department ~~shall~~ **will** support collaboration among fire service organizations and the related organizations with whom they work and the interests of the communities they serve.

(d) The Board and Department ~~shall~~ **will** consult with and inform each other fully on matters of fire standards, training and certification.

(e) The Board ~~may~~ **must** adopt or approve all policies, standards and minimum requirements for public safety certifications and training.

(f) The Department ~~may~~ **must** administer operations and procedures and implement or apply the policies and standards of the Board.

OAR 259-009-0005

Definitions

(5) “**NFPA** Cargo Tank Specialty” means a person who provides technical support pertaining to cargo tank cars, provided oversight for product removal and movement of damaged cargo tanks, and acts as liaison between technicians and outside resources.

(13) "Field Training Officer" means an individual who is authorized by a fire service agency ~~of~~ **or** by the Department to sign as verifying completion of tasks required by task books.

(21) “First Responder” means an “**NFPA** Operations Level Responder.”

(22) “**NFPA** Hazardous Materials Safety Officer” means a person who works within an incident management system (IMS) (specifically, the hazardous materials branch/group) to ensure that recognized hazardous materials/WMD safe practices are followed at hazardous materials/weapons of mass destruction (WMD) incidents.

(23) “**NFPA** Hazardous Materials Technician” means a person who responds to hazardous materials/weapons of mass destruction (WMD) incidents using a risk-based response process by which they analyze a problem involving hazardous materials/weapons of mass destruction (WMD), select applicable decontamination procedures, and control a release using specialized protective and control equipment.

(24) “**NFPA** Incident Commander” (IC) means a person who is responsible for all incidents activities, including the development of strategies and tactics and the ordering and release of resources.

(25) “**NFPA** Intermodal Tank Specialty” means a person who provides technical support pertaining to intermodal tanks, provided oversight for product removal and movement of damaged intermodal tanks, and acts as a liaison between technicians and outside resources.

(26) “**NFPA** Marine Tank Vessel Specialty” means a person who provides technical support pertaining to marine tank vessels, provided oversight for product removal and movement of damaged marine tank vessels, and acts as a liaison between technicians and outside resources.

(61) “**NFPA** Operations Level Responder” means a person who responds to hazardous materials/weapons of mass destruction (WMD) incidents for the purpose of implementing or supporting actions to protect nearby persons, the environment, or property from the effects of the release.

(63) “**NFPA** Tank Car Specialty” means a person who provides technical support pertaining to tank cars, provided oversight for product removal and movement of damaged tank cars, and acts as a liaison between technicians and outside resources.

OAR 259-009-0010

Personnel Action Forms

(1) All public or private fire service agencies ~~shall~~ **will** furnish to the Department the name, address, and other pertinent information concerning any newly appointed fire service professional on a Personnel ~~Action~~ **Agency** Form (DPSST Form PAF-1) within thirty (30) business days after employment.

(2) Whenever fire service personnel resign, retire, or terminate employment, are discharged, or deceased, the agency head ~~shall~~ **will** report this information to the Department on a Personnel ~~Action~~ **Agency** Form (~~DPSST Form PAF-1~~) within thirty (30) business days of the action.

(3) All applicable sections of the Personnel Action Agency Form (~~DPSST Form PAF-1~~) must be completed and signed by the agency head or an authorized representative. **Fire service personnel are not allowed to sign their own forms.**

(4) All applicants ~~shall~~ **will** furnish to the Department on a Personnel Action Agency Form (~~DPSST Form PAF-1~~) their social security number. The social security number is used to accurately identify the applicant and to verify information provided by fire service professionals under the Act in connection with revocation proceedings.

OAR 259-009-0020

Waiver for Equivalent Training or Experience -- Reciprocity

(2) In order to be considered for equivalency, training received in a state with laws governing or regulating training of fire service professionals ~~shall must, if subject to such review,~~ have been approved or certified by the employing agency in the state in which the training was received.

OAR 259-009-0025

College Education Credits

~~(1) College credits used for certification shall have been earned at a recognized college or university listed below or under subsection (2) of this rule.~~

~~(a 1)~~ The Department ~~shall~~ **will** only recognize those credits awarded by an accredited, degree-granting college or a university of post secondary education which is recognized by the Council for Higher Education (CHEA) or by the Council on Postsecondary Accreditation (COPA)/Commission of Recognition of Postsecondary Accreditation (CORPA), as outlined in the current edition of the Higher Education Directory (HED).

(2) College credits used for certification obtained in a foreign country, which certificate, credential, or degree is claimed to be comparable to a certificate, credential, or degree granted by a licensing body in the United States or US Territories must be evaluated by a credentialing agency that is a member of the National Association of Credential Evaluation Services (NACES). The Department/Board has no responsibility for obtaining ~~and/or~~ paying for the evaluation and arranging for an official copy to be sent by the evaluating agency to the Department. The evaluation must be approved by the Department, based upon review of an official copy sent by the evaluating agency directly to the Department, before the educational credit is accepted as equivalent.

(3) Certification Credit. Persons wishing to document college education ~~shall~~ **must** furnish ~~the Department~~ official transcripts or a certified true copy of official transcripts **to the**

Department. Courses can only be accepted for credit towards certification if the class has been successfully passed with a “C” or better.

~~OAR 259-009-0030~~

~~Fire Policy Committee~~

~~(1) The Fire Policy Committee consists of:~~

~~(a) All of the board members who represent the fire service discipline; and~~

~~(b) The following, who may not be current board members, appointed by the chairperson of the board:~~

~~(A) One person recommended by and representing a statewide association of fire instructors;~~

~~(B) One person recommended by and representing a statewide association of fire marshals;~~

~~(C) One person recommended by and representing community college fire programs; and~~

~~(D) One non-management fire fighter recommended by a statewide organization of fire fighters.~~

~~(2) Policies and Objectives~~

~~(a) In making appointments to the policy committees under this section, the chairperson of the board shall seek to reflect the diversity of the state's population. An appointment made by the chairperson of the board must be ratified by the board before the appointment is effective.~~

~~(b) The chairperson of the board may remove an appointed member for just cause.~~

~~(c) An appointment to a policy committee that is based on the member's employment is automatically revoked if the member changes employment.~~

~~(d) The chairperson of the board shall fill a vacancy in the same manner as making an initial appointment.~~

~~(e) The term of an appointed member is two years.~~

~~(f) An appointed member may be appointed to a second term.~~

~~(3) (a) A policy committee may meet at such times and places as determined by the policy committee in consultation with the Board and Department.~~

~~(b) A majority of a policy committee constitutes a quorum to conduct business.~~

~~(c) A policy committee may create subcommittees if needed.~~

~~(4)(a) Each policy committee shall develop policies, requirements, standards and rules relating to its specific discipline.~~

~~(A) A policy committee shall submit its policies, requirements, standards and rules to the board for the board's consideration.~~

~~(B) When a policy committee submits a policy, requirement, standard or rule to the board for the board's consideration, the board shall:~~

~~(i) Approve the policy, requirement, standard or rule;~~

~~(ii) Disapprove the policy, requirement, standard or rule; or~~

~~(iii) Defer a decision and return the matter to the policy committee for revision or reconsideration.~~

~~(b) The board may defer a decision and return a matter submitted by a policy committee under paragraph (a) of this subsection only once. If a policy, requirement, standard or rule that was returned to a policy committee is resubmitted to the board, the board shall take all actions necessary to implement the policy, requirement, standard or rule unless the board disapproves the policy, requirement, standard or rule.~~

~~(c) Disapproval of a policy, requirement, standard or rule under paragraph (a) or (b) of this subsection requires a two-thirds vote by the members of the board.~~

~~(5) At any time after submitting a matter to the board, the chairperson of the policy committee may withdraw the matter from the board's consideration.~~

~~(6) Past decisions of the advisory committees will not dictate precedence for decisions to be made by the policy committees.~~

~~(7) Policy committees are to be governed by the most recent edition of their by-laws.~~

Stat. Auth.: ORS 181.640 & ORS 181.765

Stats. Implemented: ORS 181.640 & ORS 181.765

OAR 259-009-0035

Certificates Are Property of Department

Certificates and awards are the property of the Department, ~~and the~~ **The** Department shall have **has** the power to revoke or recall **suspend** any certificate or award as provided in the Act.

OAR 259-009-0059

Minimum Standards for Employment as a Fire Service Professional

- (1) No person may be certified as a Fire Service Professional who has not yet attained 18 years of age.
- (2) Only training received after attaining the age of 16 ~~may~~ **will** be applied for certification purposes.
- (3) DPSST Fire Service Agency affiliation ~~may~~ **must** be attained after the age of 16 via submission of a PAF-1 (Personnel ~~Action~~ **Agency** Form).
- (4) Fingerprints. Any individual utilized by a fire service agency that is identified in the Oregon LEDS system as a multi-source offender is required to be fingerprinted on standard applicant fingerprint cards. The hiring agency is responsible for fingerprinting and must forward one (1) card, with the appropriate fees to the Department.
- (5) Notification of Conviction:
 - (a) A fire service professional or instructor who is convicted of a crime, as identified in OAR 259-009-0070, while employed by a fire service agency must notify the agency head within five (5) business days of the conviction.
 - (b) When an agency receives notification of a conviction from a fire service professional, instructor, or another source, the **agency** must notify the Department within 30 calendar days. The notification to the Department must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of the conviction.

OAR 259-009-0062

Fire Service Personnel Certification

- (1) A fire service professional affiliated with an Oregon fire service agency may be certified by:
 - ~~(a)~~ **(a)** Satisfactorily completing the requirements specified in section (2) of this rule;
 - ~~(b)~~ **(b)** Through participation in a fire service agency training program accredited by the Department;
 - ~~(c)~~ **(c)** Through a course certified by the Department; or
 - ~~(d)~~ **(d)** By evaluation of experience as specified in OAR 259-009-0063.

(e) The Department may certify a fire service professional who has satisfactorily completed the requirements for certification as prescribed in section (2) of this rule, including the Task Performance Evaluations (TPE) if applicable.

(2) The following standards for fire service personnel are ~~hereby~~ adopted by reference:

(a) The provisions of the NFPA Standard 1001, 2008 Edition, entitled "Fire Fighter Professional Qualifications";

~~(A) "Authority having jurisdiction" means the Department of Public Safety Standards and Training.~~

~~(B A)~~ Delete section 1.3.1.

NOTE: This references NFPA 1500.

~~(C B)~~ Delete section 2.2.

NOTE: This references NFPA 1500 and 1582.

~~(D E)~~ Entry Level Fire Fighter means an individual trained to the requirements of Section 2-1 Student Prerequisites, NFPA Standard 1403, 1997 Edition, entitled "Live Fire Training Evolutions" and the applicable safety requirements adopted by OR-OSHA. An individual trained to this level and verified so by the agency head is qualified to perform live-fire training exercises and to perform on the emergency scene under constant supervision. An Entry Level Fire Fighter should be encouraged to complete Fire Fighter I training within one year.

~~(E F)~~ ~~Before an All applicants can qualify for certification, the applicant must complete either a Task Performance Evaluation or a Department-approved Task Book for NFPA Fire Fighter I and NFPA Fire Fighter II. The Evaluation or Task Book must be approved signed off by the Agency Head or Training Officer before an applicant can qualify for certification.~~

(b) The provisions of the NFPA Standard 1002, 2009 Edition, entitled "Standard for Fire Apparatus Driver/Operator Professional Qualifications," are adopted subject to the following definitions and modifications hereinafter stated:

(A) 5.1 General. The job performance requirements defined in Sections 5.1 and 5.2; must be met prior to certification as a Fire Service Agency Driver/Operator-Pumper.

(G) Delete "the requirements of NFPA 1500, Standard on Fire Department Occupational Safety and Health Program.";

(H) All applicants for certification must complete either a Task Performance Evaluation or a Department-approved Task Book for: ~~Driver, Pumper Operator, Aerial Operator, Tiller Operator, Wildland Fire Apparatus Operator, Aircraft Rescue and Fire Fighting Apparatus~~

~~Operator or Mobile Water Supply Apparatus Operator~~ **NFPA Fire Apparatus Driver/Operator, NFPA Apparatus Equipped with Fire Pump, NFPA Apparatus Equipped with an Aerial Device, NFPA Apparatus Equipped with a Tiller, NFPA Wildland Fire Apparatus, NFPA Aircraft Rescue and Firefighting Apparatus or NFPA Mobile Water Supply Apparatus. The Task Books must be approved and signed off** by the Agency Head or Training Officer before an applicant can qualify for certification.

~~(A) "Authority having jurisdiction" means the Department of Public Safety Standards and Training.~~

~~(B)~~ **A** Delete section 2.2.

NOTE: This references NFPA 1500.

~~(C)~~ **B** Delete sections of 2.4.

NOTE: This references NFPA 1000, NFPA 1081, NFPA 1405, NFPA 1670 and NFPA 1710.

~~(D)~~ **C** 5.1 General. Prior to certification as a Fire Service Agency NFPA 1005 Marine Land-Based Fire Fighter, the requirements of NFPA 1001 Fire Fighter II, as specified by the Department.

~~(E)~~ **D** All applicants for certification must complete a Department-approved Task Book for: Marine Fire Fighting for Land Based Fire Fighters. **The Task Book must be approved and signed off** by the Agency Head or Training Officer before an applicant can qualify for certification.

~~(F)~~ **E** Transition Phase:

(i) An application for certification in Marine Fire Fighting for Land Based Fire Fighters must be submitted to the Department no later than June 30, 2009 to receive consideration for certification without having to complete a task book.

(ii) All applications received on or after July 1, 2009; will need to show completion of the approved task book.

(g) The provisions of the NFPA Standard No. 1031, Edition of (2009), entitled "Professional Qualifications for Fire Inspector and Plan Examiner" are adopted.

(A) All applicants for certification as an NFPA Fire Inspector I must:

(i) Successfully complete a Department-approved Task Book; and

(ii) Furnish proof that they have passed an exam demonstrating proficiency in the model fire code adopted by the State of Oregon or an equivalent.

(B) All applicants for certification as an NFPA Fire Inspector II must:

- (i) Hold a certification as a **NFPA** Fire Inspector I; and
- (ii) Successfully complete a Department-approved Task Book.

(C) All applicants for certification as an NFPA Fire Inspector III must:

- (i) Hold a certification as a **NFPA** Fire Inspector II; and
- (ii) Successfully complete a Department-approved Task Book.

(A) An individual must successfully complete a Department-approved Task Book before the Department will administer a written examination for the Fire Investigator certification level. Exception: Anyone holding a valid IAAI Fire Investigator Certification, National Association of Fire Investigators (NAFI) certification, or Certified Fire Explosion Investigators (CFEI) certification is exempt from taking the Department's Fire Investigator written exam.

(A) Chapter 6 (Six) "Juvenile Firesetter Intervention Specialist I" and Chapter 7 (Seven) "Juvenile Firesetter Intervention Specialist II," Oregon-amended, ~~shall~~ **will** be adopted with the following changes:

(ii) Under 6-1 General Requirements, delete the statement, "In addition, the person ~~shall~~ **will** meet the requirements for **NFPA** Public Fire and Life Safety Educator I prior to being certified as a **NFPA** Juvenile Firesetter Intervention Specialist I."

(B) A task book ~~shall~~ **will** be completed prior to certification as a **NFPA** Public Fire and Life Safety Educator I, II or III.

(C) A task book ~~shall~~ **will** be completed prior to certification as a **NFPA** Public Information Officer.

(D) A task book ~~shall~~ **will** be completed prior to certification as a **NFPA** Juvenile Firesetter Intervention Specialist I and II.

(j) The provisions of the NFPA Standard No. 1041, Edition of 2012, entitled "Standard for Fire Service Instructor Professional Qualifications," are adopted subject to the successful completion of an approved task book for NFPA Fire Instructor I, II and III.

(k) The provisions of the NFPA Standard 1021, 2009 Edition, entitled "Standards for Fire Officer Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) 4.1 General. For certification as NFPA Fire Officer I, the candidate must be certified at NFPA 1001 Fire Fighter II, and NFPA 1041 Fire Instructor I, as defined by the Department, and meet the job performance requirements defined in Sections 4.1 through 4.7 of this Standard.

(i) Amend section 4.1.2 General Prerequisite Skills to include college courses or Department-approved equivalent courses in the following areas of study: Communications, Math, Physics, Chemistry, or Fire Behavior and Combustion. Refer to the suggested course guide for detailed course, curriculum and training information.

(ii) All applicants for certification must complete ~~either~~ a Task Performance Evaluation or a Department-approved Task Book for ~~NFPA Fire Officer I~~. **The Evaluation or Task Book must be approved** and signed off by the Agency Head or Training Officer before an applicant can qualify for certification.

(B) 5.1 General. For certification as NFPA Fire Officer II, the candidate must be certified as NFPA Fire Officer I, as defined by the Department, and meet the job performance requirements defined in Section 5.1 through 5.7 of the Standard.

(i) Amend section 5.1.2 General Prerequisite Skills to include college courses or Department approved equivalent courses in ~~the following areas of study~~: Psychology or Sociology.

(ii) Amend section 5.3 Community and Government Relations to include State and Local Government or Department-approved equivalent courses.

(iii) All applicants for certification must complete ~~either~~ a Task Performance Evaluation or a Department-approved Task Book for NFPA Fire Officer II. **The Evaluation or Task Book must be approved**, and signed off by the Agency Head or Training Officer, before an applicant can qualify for certification.

(C) 6.1 General. For certification as NFPA Fire Officer III, the candidate must be certified as a NFPA Fire Officer II, NFPA, NFPA 1041 Fire Instructor II, as defined by the Department, and meet the job performance requirements defined in Sections 6.1 through 6.7 of the Standard.

(D) 7.1 General. For certification as NFPA Fire Officer IV the candidate must be certified as NFPA Fire Officer III, as defined by the Department, and meet the job performance requirements in Sections 7.1 through 7.7 of the Standard.

(i) All applicants for certification must complete a Department-approved Task Book for NFPA Fire Officer IV. **The Task Book must be approved**, and signed off by the Agency Head or Training Officer, before an applicant can qualify for certification.

~~(I) Hazardous Materials Responder (DPSST P-12 1/96).~~

(n) Advanced Wildland Interface Fire Fighter (FFT1).

(A) This standard includes NWCG Wildland Fire Fighter Type 1.

(B) An individual applying for **Advanced** Wildland Interface Fire Fighter (FFT1) must be certified as Wildland Interface Fire Fighter (FFT2) prior to applying for **Advanced** Wildland Interface Fire Fighter (FFT1) and must document training in all of the following areas at the time of application:

(i) S-131 Firefighter Type I;

(ii) S-133 Look Up, Look Down, Look Around; and

(iii) Completion of the ~~NWCG~~ NWCG Firefighter Type 1 (FFT1)/Incident Commander Type 5 (ICT5) Task Book.

(o) Wildland Interface Fire Fighter (FFT2).

(v) Maritime Fire Service Operator Standards Professional Qualifications (October, 1999) and completion of an approved task book. Historical Recognition:

(A) The application ~~shall~~ **must** be submitted with the Fire Chief or designee's signature attesting to the skill level and training of the applicant.

(x) The provisions of the 2008 Edition of NFPA 1006 entitled, "Standards for Technical Rescuer Professional Qualifications" are adopted subject to the following modifications:

~~(A) The "Authority Having Jurisdiction" means the local or regional fire service agency.~~

(D) Task Books:

(i) A task book must be completed for each of the eleven specialty rescue areas applied for.

(ii) Only a certified technician in that specialty rescue area can ~~sign off on~~ **approve** the task book.

(iii) The requirements in Chapters 4 and 5 ~~need~~ only **need** to be met once for all eleven specialty rescue areas.

(y) Urban Search and Rescue.

(A) This is a standard that is Oregon-specific.

(B) The following eleven (11) specialty Urban Search and Rescue (USAR) certifications are adopted:

- (i) Task Force Leader;
- (ii) Safety Officer;
- (iii) Logistics Manager;
- (iv) Rescue Team Manager;
- (v) Rescue Squad Officer;
- (vi) Rescue Technician;
- (vii) Medical Technician;
- (viii) Rigging Technician;
- (ix) Search Team Manager;
- (x) Search Squad Officer; **and**
- (xi) Search Technician.

(C) An applicant applying for any USAR certification(s) must complete the appropriate application(s) attesting to completion of the required training.

(z) The provisions of the NFPA Standard 472, 2008 Edition, entitled “Standard for Hazardous Materials and Weapons of Mass Destruction” are adopted subject to the following definitions and modifications ~~hereinafter~~ stated:

(A) **NFPA** Hazardous Materials Technician: All applicants for certification must first certify as an **NFPA** Operations Level Responder and complete a Department-approved Task Book. **The Task Book must be approved,** ~~signed off~~ by the Agency Head or Training Officer, before an applicant can qualify for certification.

(B) **NFPA** Hazardous Materials Safety Officer: All applicants for certification must first certify as a **NFPA** Hazardous Materials Technician and complete a Department-approved Task Book. **The Task Book must be approved,** ~~signed off~~ by the Agency Head or Training Officer, before an applicant can qualify for certification. This certification level includes, but is not limited to, the following course work:

- (i) Analyzing the Incident;
- (ii) Planning the Response;
- (iii) Implementing the Planned Response;

(iv) Evaluating the Progress.

(C) Incident Commander: The level of certification formerly known as “On-Scene Incident Commander” is now known as “**NFPA Hazardous Materials** Incident Commander.” The Incident Commander correlates directly with NFPA 472. All applicants for certification must first certify as an **NFPA** Operations Level Responder.

(D) Operations Level Responder: The level of certification formerly known as “First Responder” is now known as “**NFPA** Operations Level Responder.” The **NFPA** Operations Level Responder correlates directly with NFPA 472. Successful completion of skills sheets or task performance evaluations (TPE) must be met prior to certification as an **NFPA** Operations Level Responder.

(aa) Specialty Levels of Certification. All applicants for specialty levels of certification must first certify as a **NFPA** Hazardous Materials Technician.

(A) The following four (4) specialty certifications are adopted:

- (i) **NFPA** Cargo Tank Specialty;
- (ii) **NFPA** Intermodal Tank Specialty;
- (iii) **NFPA** Marine Tank Vessel Specialty;
- (iv) **NFPA** Tank Car Specialty;

(B) Successful completion of task performance evaluations (TPE) must be met prior to obtaining a specialty level of certification.

(3) Task performance evaluations, where prescribed, ~~shall~~ **will** be required prior to certification. Such examinations ~~shall~~ **will** be conducted in the following manner:

(a) Task performance competency ~~shall~~ **will** be evaluated by three people nominated by the employing fire service agency's Chief Officer for approval by the Department or its designated representative.

(b) The employing fire service agency's equipment and operational procedures ~~shall~~ **must** be used in accomplishing the task performance to be tested.

(c) Specific minimum testing procedures, as provided by the Department, ~~shall~~ **will** be used for administration of the evaluation.

OAR 259-009-0063

Credit for Experience

(1) A fire service professional with three years experience in a fire department may apply to be evaluated for certification based upon experience and accumulated knowledge.

(2) A fire service professional may petition for credit for prior learning. The individual ~~shall~~ **must** describe in writing all experience and training pertinent to the standard being challenged. The material presented ~~shall~~ **will** be reviewed by a panel of three fire service professionals, appointed by the Department or designated staff. The fire service professionals ~~shall~~ **will** determine what credit, if any, ~~shall~~ **should** be granted to the individual.

(3) Applicants may take a competency examination, if available. Applicants who fail examinations for any specific requirement ~~may~~ **will** not be re-examined for a period of sixty days. Applicants who fail examinations for specific requirements may, after a sixty day interim period, apply to the Department to be re-examined by written or oral examination. Oral examinations ~~shall~~ **will** be conducted by a representative of the Department.

(4) The Department may enter into a learning contract with a fire service professional for any standards that are needed. Upon successful completion of the contract the individual ~~shall~~ **will** be granted credit for the job performance requirements. The contract ~~shall~~ **must** be in writing and signed by the Director or designated representative and the individual seeking credit. The contract ~~shall~~ **will** include a course of study, an evaluation process and a completion date.

(5) The Department or its designated representative ~~shall~~ **will** notify the applicant of the results of the evaluation within sixty (60) days.

(6) The Department or its designated representative may grant certification to the applicant when the evaluation indicates the applicant's experience and knowledge exceed the minimum established standards. (Note: See also OAR 259-009-0020)

OAR 259-009-0065

Maintenance

(1)(a) The Training Officer must verify that individuals have successfully performed essential functions for each certification through service delivery (see OAR 259-009-0005(~~29~~)), task performance (see OAR 259-009-0005(~~34~~)), or sufficient education or training hours to verify each member's certification pursuant to OAR 259-009-0065(~~2~~). Any certificate not verified by the agency will be ~~recalled~~ **lapsed**.

(b) Verification that maintenance requirements have been completed must be submitted to the Department by December 31st of every even year.

(2) Maintenance requirements must be demonstrated by completing any combination of one or more of the following:

- (a) Service Delivery;
- (b) Task Performance;
- (c) Education; **or**
- (d) Training.

(3) Operation Track:

(a) NFPA Fire Fighter I, NFPA Fire Fighter II, NFPA Driver, **NFPA** Hazmat First Responder, **NFPA** Hazmat Technician, NFPA Airport Fire Fighter, NFPA Pumper Operator, NFPA Aerial Operator, NFPA Tiller Operator, NFPA Aircraft Rescue and Firefighting Apparatus Operator, Wildland Fire Apparatus Operator, NFPA Mobile Water Supply Apparatus Operator, NFPA Fire Officer I, NFPA Fire Officer II, Fire Ground Leader, NFPA Rescue Technician (Rope, Water, Vehicle, Confined Space, Structural, Trench), On Scene Incident Command, Wildland Interface (Fire Fighter, Engine Boss, Strike Team Leader, Wildland Interface Division Supervisor), Maritime Operator (Awareness, Deck Hand, Boat Operations, Rescue Boat, Fire Boat) certification levels must complete maintenance requirements for Operation Track.

(b) Failure to complete maintenance requirements and submit the completed appropriate form, after the warning notification letter and before the three (3) month extension has expired, will result in the ~~recall~~ **lapse** of the Fire Service Professional's certification.

(c) Subject to Department approval, re-certification following a ~~recall~~ **lapse** may be obtained by **upon the employing agency** submitting the following:

(A) ~~The employing agency head must request certification, and submit~~ **A request for re-certification and** documentation explaining why the maintenance requirements were not completed or verified; and

(B) ~~Submit~~ **Verification** that the maintenance requirements have been completed **and completed reinstatement form**.

OAR 259-009-0067

Lapsed Certification

(1) All levels of certification of any fire service professional ~~shall~~ **will** be considered lapsed if the individual has not been utilized as such for more than twelve (12) consecutive months.

(2) A fire service professional whose certification has lapsed ~~may~~ **must** apply for re-certification upon re-utilization as a fire service professional.

(a) The fire service professional must complete a Department task book, task performance evaluation or approved training;

(b) Upon successful completion of the appropriate testing or evaluation, as verified by the signature and recommendation of the agency head or designee, the fire service professional whose certification has lapsed, may request reinstatement of his/her certification. The request must be made to the Department by submitting the appropriate form.

OAR 259-009-0070

Denial/Revocation

(1) It is the responsibility of the Board to set the standards, and of the Department to uphold them, to insure the highest levels of professionalism and discipline. These standards ~~shall~~ **will** be upheld at all times unless the Board determines that neither the safety of the public or respect of the profession is compromised.

OAR 259-009-0085

Certification of Courses and Classes

(1) The Department ~~shall~~ **will** certify courses, and classes deemed adequate to effectively teach one or more approved fire subject(s) to fire service personnel.

(2) Certification ~~shall~~ **will** be based on the evaluation of course curriculum or subjects for instruction.

(3) Facilities and equipment used for certified training ~~shall~~ **will** be accessible to all interested and qualified individuals.

(4) The Department ~~shall~~ **will** certify courses at the Content level. Courses certified at the content level require a student demonstration of acquired knowledge, skill, or ability. Agencies, organizations, or individuals requesting course certification at the content level ~~shall~~ **must** submit an Application for Certification of to Certify a Course (DPSST Form F-20), accompanied by clearly-defined NFPA standards for job performance requirements, curriculum, test questions or evaluation criteria, and evidence of instructor certification as provided in OAR 259-009-0080. Curriculum submitted to DPSST becomes the property of DPSST.

(5) The Department ~~shall~~ **must** notify the requesting agency, organization or individual, in writing, of the denial or the granted level of course certification. If certification is granted, ~~that notification shall be accompanied by Student Rosters.~~ **the instructor must submit an Application to Instruct an Approved DPSST Course (DPSST Form F-9F) to obtain rosters and a Notice of Course Completion (NOCC).**

(6) It is the responsibility of the requesting agency, organization, or individual, to:

(a) Oversee the preparation of curriculum and to ~~insure~~ **ensure** its compliance with the requirements of the Department;

(b) Obtain a facility and instructor(s) to be used for the course, and ~~insure~~ **ensure** their compliance with the requirement of the Department;

(c) Develop rules and regulations governing the operation of the facility and the conduct of the trainees;

(d) Administer the course;

(e) Maintain an accurate record of attendance; and

(f) Maintain all forms required by the Department, forwarding them within the stipulated time period.

(7) Once a course is certified, it remains certified for unlimited delivery for five years, unless there is a significant change in course content, number of hours or instructor(s); or unless it is decertified by the Department as provided in section (9) of this rule. The Department ~~shall~~ **must** be notified of significant changes.

(8) All course certification ~~shall~~ **will** expire on December 31st of the fifth year after the initial ~~certification~~ **approval date**. Agencies, organizations or individuals ~~shall~~ **must** request re-certification to continue a course for each additional five (5) years.

(9) The Department ~~may~~ **must** decertify a course whenever that course is deemed inadequate. The course may be recertified by the Department when satisfactory proof has been presented to the Department that the deficiencies have been corrected.

(10) Fire service agencies may accredit their training programs as provided in OAR 259-009-0087.

OAR 259-009-0087

Accreditation of Fire Service Agency Training Programs

(1) The Department may accredit fire service agency training programs which meet the following requirements:

(a) The program ~~shall be~~ **is** under the direction of a designated training officer;

(b) Qualified instructors ~~shall be~~ **are** provided to teach the various subjects;

(c) The organizational structure of the program ~~shall be~~ **is** submitted to the Department along with course outlines of subject content, instructor qualifications, and the appropriate

application form for accreditation. A plan ~~shall~~ **must** be included which explains how the required training hours will be provided; **and**

(d) The training officer ~~shall~~ **annually** schedules and makes available ~~annually~~ to fire service personnel the following minimum hours of acceptable education ~~and/or~~ /training:

DISCIPLINE -- HOURS PER YEAR

Fire Suppression Personnel -- 60 Hours

All Other Disciplines -- 12 Hours

Instructor I, II, III -- 4 Hours

(e) At the conclusion **of the training program** or as a part of the accredited training, the training officer ~~shall~~ **will** require appropriate written examination ~~and/or~~ task performance examination in accordance with standards and procedures adopted by the Department.

(f) Fire Service Personnel training records ~~shall be maintained by the employing fire service agency for at least five years, after the fire service professional has left the agency, on the progress and amount of instruction completed by all fire service personnel in the fire service agency~~ **must be maintained by the employing fire service agency for at least five years.**

(g) The fire service agency ~~shall~~ **will** possess at least one triple combination pumper that conforms to the minimum standards for automotive fire apparatus as outlined in the National Fire Protection Association (NFPA) Pamphlet #1901. Apparatus may be accepted by judgment of the Department when it is of a special fire suppression need; ~~and/or~~ will adequately meet the training needs of the proposed program.

(h) A written accreditation agreement ~~shall~~ **must** be prepared by the Department, defining the specific requirements of accreditation, including the specific training the fire service agency is accredited to deliver. The agreement ~~shall~~ **must** be signed by the Department's designee; the Agency head of the fire service agency; City Manager or Chairman of the Rural Fire Protection District Board; and the training officer. The accreditation agreement must be reviewed every three (3) years.

(A) The review will consist of a written questionnaire which must be verified by the Fire Chief **Agency Representative.**

(B) An on-sight review ~~may~~ **must** occur if there is a change in the accreditation agreement.

(C) The Agency head ~~shall~~ **will** agree as a part of the accreditation agreement to allow, at any time, access by Department examiners to the fire service agency's personnel training records to verify training received by fire service agency personnel; and to monitor testing processes.

(2) The Agency head, on behalf of the fire service agency, ~~shall~~ **will** have the right to appeal to the Department any proposed termination of the agreement.

OAR 259-009-0090

Training Records

(1) Upon receipt by the Department of a Personnel Action Agency Form (DPSST Form PAF-1), properly identifying a fire service professional, the Department ~~shall~~ will initiate a file for that individual and record completion of approved training, as well as other personnel information, if properly documented.

(2) Upon display of proper identification, an agency head, or authorized representative, may review their employee's file as maintained by the Department. Proper identification ~~shall~~ will also be required of individuals interested in reviewing their own file.

(3) ~~If an agency or employee~~ All requests a for copy copies of ~~their~~ training records the request must be made in writing.

(4) Review ~~and/or~~ release of non-public information under Oregon law to other than the individual whose file is the subject of the information request or to the employing public or private fire safety agency ~~shall~~ will only be permitted by the Department upon advisement by the Attorney General, by court order, or with a signed consent from the individual whose file is the subject of the information request.

OAR 259-009-0100

Miscellaneous Activities of the Board or Department

(1) The Board or Department may make or encourage studies of any aspect of fire administration, including the stimulation of research by public and private agencies which ~~shall~~ will be designed to improve the Fire Protection System.

ACTION ITEM I: Determine whether to recommend approval to the Board to file the proposed rule language for OAR Chapter 259, Division 009 with the Secretary of State as a proposed rule.

ACTION ITEM II: Determine whether to recommend filing the proposed language for OAR Chapter 259, Division 009 with the Secretary of State as permanent rule if no comments are received.

ACTION ITEM III: Pursuant to ORS 183.333, determine whether there is a significant fiscal impact on small business. *No fiscal impact by consensus.*

Dave Jones moved to recommend to the Board filing the proposed language for OAR Chapter 259, Division 009 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Dan Peterson seconded the motion. The motion carried in a unanimous vote.

4. Denial Case Review for Robert Norris #25799 – South Sherman Fire Protection District

Presented by Kristen Turley

ISSUE:

Should Robert Norris' application for NFPA Fire Fighter I certification be denied based on his discretionary disqualifying criminal conviction defined in OAR 259-009-0070(4)?

BACKGROUND and OVERVIEW:

This case involves the following actions and processes related to NORRIS:

NORRIS has served as a fire service professional since 2008.

On February 2, 2013, NORRIS applied for a NFPA Fire Fighter I certification.

*On or about October 11, 2005, NORRIS was arrested for Fourth Degree Assault, Strangulation and Harassment. On November 3, 2005, NORRIS was convicted of Fourth Degree Assault. Staff attempted to obtain a copy of the incident report from Marion County Sheriff's Office and was notified that they were unable to release pursuant to Oregon Revised Statute 419B.035 (confidentiality of documents related to child abuse). **Fourth Degree Assault is a discretionary disqualifying crime for purposes of certification.***

On or about January 23, 2006, NORRIS received a Probation Violation after failing to comply with the requirements of his court ordered probation. This violation resulted in ten days in jail.

On or about June 12, 2006, NORRIS received a Probation Violation after failing to comply with the requirements of his court ordered probation. This violation resulted in eight days in jail.

On or about November 7, 2006, NORRIS' probation was revoked and he was committed to the custody of the Department of Corrections for six months along with twenty four months of post-prison supervision.

On or about January 12, 2007, NORRIS was convicted of misdemeanor DUII.

Misdemeanor DUII is not a discretionary disqualifying crime for purposes of certification.

On or about August 10, 2007, NORRIS was charged with First Degree Rape, First Degree Sodomy, and two counts of First Degree Unlawful Sexual Penetration. On January 7, 2008, all charges were dismissed. On April 26, 2013, staff spoke to the Sherman County District Attorney's Office to identify why the charges were dismissed and was told that he had passed several polygraphs related to the charges.

*On or about January 4, 2008, NORRIS was convicted of misdemeanor Contempt of Court. On March 26, 2013, staff spoke to the Sherman County District Attorney's Office to identify what conduct led to the January 4, 2008, conviction of Contempt and was told NORRIS shared information that was in a protective order related to First Degree Rape charges on August 10, 2007. **Contempt of Court is not a discretionary disqualifying crime for purposes of certification.***

Conviction of Fourth Degree Assault 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 March 25, 2013, TURLEY mailed NORRIS 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. As a policy, DPSST also provides a Stipulated Order Revoking and/or Denying Certification to individuals whose cases are to be heard by a Policy Committee. Some individuals elect to sign a Stipulated Order which ends the denial or revocation process.

Fire Chief Fluhr and NORRIS provided information for consideration.

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.

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 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 characteristics of being just, impartial, or fair.

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.

SPECIFIC TO THIS CASE:

OAR 259-009-0070(4) specifies the discretionary disqualifying conviction of *Fourth Degree Assault* [ORS 163.160] as violating Category III, Justice, based on the elements of the crime.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, OAR 259-009-0070(7)(d) provides that the FPC and Board will consider aggravating and mitigating circumstances including, but not limited to the following:

(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.

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.

ACTION ITEM 1:

Staff requests the Fire Policy Committee review the matter and make a recommendation to the Board whether or not to deny NORRIS' certification 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 and articulate the **misconduct that is specific to this case**.
 - b. The identified conduct *did/did not* violate the core value of **Honesty**.
 - c. The identified conduct *did/did not* violate the core value of **Professionalism**.
 - d. The identified conduct *did/did not* violate the core value of **Justice**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Fire Policy Committee finds that NORRIS' conduct, including the criminal conviction(s) and all mitigating and aggravating circumstances identified by the committee, *does/does not* rise to the level to warrant denial of his certification, and therefore recommends to the Board that NORRIS' certification be *denied/not denied*.

ACTION ITEM 2: (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 re-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*.

Dan Peterson moved that the Committee adopts the staff report as the record on which their recommendations are based. Dave Jones seconded the motion. The motion carried unanimously.

By discussion and consensus:

- a. Identify and articulate the misconduct that is specific to this case. *Fourth Degree Assault is a discretionary disqualifying crime, for purposes of certification.*
- b. The identified conduct **did** violate the core value of Honesty.
- c. The identified conduct **did** violate the core value of Professionalism.
- d. The identified conduct **did** violate the core value of Justice.

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

The FPC identified the following conduct as mitigating circumstances:

- His conviction occurred prior to his fire service.
- The letters he provided to support the request for certification.

The FPC identified the following conduct as aggravating circumstances:

- Criminal conduct occurred in front of a minor child.
- The repeated contact with the victim and subsequent jail time.
- His contempt of court convictions.
- His letters of support spoke to his competency not his character.
- His failure to comply with the court requirements related to his conviction.

Dan Peterson moved that the Committee finds that NORRIS' conduct, after considering the mitigating and aggravating circumstances identified by the committee, does rise to the level to warrant denial of his certification and therefore recommends to the Board that NORRIS' certification be denied. Dave Jones seconded the motion. The motion carried unanimously.

Erin Janssens moved that the Committee recommends to the Board that NORRIS' initial minimum period of ineligibility to re-apply for certification would be two years. Dan Peterson seconded the motion. The motion carried unanimously.

5. Denial Case Review for Daniel Blood #31045 – Black Butte Ranch Rural Fire Protection District

Presented by Kristen Turley

ISSUE:

Should Daniel Blood's application for NFPA Fire Fighter I and NFPA Fire Apparatus Driver/Operator certification be denied based on his discretionary disqualifying criminal conviction defined in OAR 259-009-0070(4)?

BACKGROUND and OVERVIEW:

This case involves the following actions and processes related to BLOOD:

BLOOD has served as a fire service professional since 2012.

On March 2, 2013, BLOOD applied for a NFPA Fire Fighter I certification.

On March 5, 2013, BLOOD applied for a NFPA Fire Apparatus Driver/Operator certification.

*On or about June 23, 2003, BLOOD was arrested for Carrying a Concealed Weapon and Possession of Less Than 1 ounce of Marijuana. On September 5, 2003, BLOOD was convicted of Possession of Less Than 1 ounce of Marijuana. **Possession of Less***

Than 1 ounce of Marijuana is not a discretionary disqualifying crime for purposes of certification.

*On or about November 28, 2003, BLOOD was arrested for Second Degree Possession of a Forged Instrument and Misrepresenting Age by a Minor. On April 22, 2004, BLOOD was convicted of Second Degree Possession of a Forged Instrument. **Second Degree Possession of a Forged Instrument is not a discretionary disqualifying crime for purposes of certification.***

On or about January 29, 2004, BLOOD was arrested for First Degree Possession of a Controlled Substance. On July 6, 2005, the criminal charge was dismissed based on his completion of a drug treatment program.

*On or about November 30, 2008, BLOOD was arrested for Fourth Degree Assault and two counts of Harassment. On August 11, 2009, BLOOD was convicted of Fourth Degree Assault. **Fourth Degree Assault 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 March 25, 2013, TURLEY mailed BLOOD 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. As a policy, DPSST also provides a Stipulated Order Revoking and/or Denying Certification to individuals whose cases are to be heard by a Policy Committee. Some individuals elect to sign a Stipulated Order, which ends the denial or revocation process.

BLOOD did not provide any information for consideration.

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.

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 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 characteristics of being just, impartial, or fair.

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.

SPECIFIC TO THIS CASE:

OAR 259-009-0070(4) specifies the discretionary disqualifying conviction of *Fourth Degree Assault* [ORS 163.160] as violating Category III, Justice, based on the elements of the crime.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, OAR 259-009-0070(7)(d) provides that the FPC and Board will consider aggravating and mitigating circumstances including, but not limited to the following:

(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.

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.

ACTION ITEM 1:

Staff requests the Fire Policy Committee review the matter and make a recommendation to the Board whether or not to deny BLOOD'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 and articulate the **misconduct that is specific to this case**.
 - b. The identified conduct *did/did not* violate the core value of **Honesty**.
 - c. The identified conduct *did/did not* violate the core value of **Professionalism**.
 - d. The identified conduct *did/did not* violate the core value of **Justice**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Fire Policy Committee finds that BLOOD's conduct, including the criminal conviction(s) and all mitigating and aggravating circumstances identified by the committee, *does/does not* rise to the level to warrant denial of his certifications, and therefore recommends to the Board that BLOOD's certifications be *denied/not denied*.

ACTION ITEM 2: (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 re-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.

Dan Peterson moved that the Committee adopts the staff report as the record on which their recommendations are based. Jamie Paul seconded the motion. The motion carried unanimously.

By discussion and consensus:

- a. Identify and articulate the misconduct that is specific to this case. *Fourth Degree Assault is a discretionary disqualifying crime, for purposes of certification.*
- b. The identified conduct **did not** violate the core value of Honesty.
- c. The identified conduct **did** violate the core value of Professionalism.
- d. The identified conduct **did** violate the core value of Justice.

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

The FPC identified the following conduct as mitigating circumstances:

- His conviction occurred prior to his fire service.
- He has complied with all the court's requirements.

The FPC identified the following conduct as aggravating circumstances:

- He did not provide any information to take into consideration.

Dan Peterson moved that the Committee finds that BLOOD's misconduct and criminal conduct does rise to the level to warrant denial of his certifications, however, after reviewing the facts of the case and based upon the mitigating circumstances, the FPC recommends to the Board that BLOOD's certifications not be denied. Jamie Paul seconded the motion. The motion carried unanimously.

6. Revocation Case Review for Robert Huntzinger #17506 – Columbia River Fire & Rescue

Presented by Kristen Turley

ISSUE:

Should Robert Huntzinger's NFPA Driver, First Responder Operations, NFPA Fire Fighter I & II certifications be revoked based on a discretionary disqualifying criminal conviction defined in OAR 259-009-0070(4)?

BACKGROUND and OVERVIEW:

This case involves the following actions and processes related to HUNTZINGER:

HUNTZINGER served as a fire service professional from 2001 until 2012.

On or about June 5, 2012, DPSST received information from Ronald Youngberg from Columbia River Fire & Rescue regarding information found on the internet regarding HUNTZINGER's military conviction.

On or about March 18, 2009, HUNTINGZER was convicted by general court-martial for violating a lawful general order and possession of child pornography.

DPSST staff requested Lorraine Anglemier, Legal Services Coordinator, to review the judicial findings in support of a military code conviction, and to review it for comparison to Oregon criminal code provisions. Based on that review, ORS 163.686, Encouraging Child Sexual Abuse in the Second Degree is most equivalent.

Encouraging Child Sexual Abuse in the Second Degree 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 December 20, 2012, TURLEY mailed HUNTZINGER 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. As a policy, DPSST also provides a Stipulated Order Revoking and/or Denying Certification to individuals whose cases are to be heard by a Policy Committee. Some individuals elect to sign a Stipulated Order, which ends the denial or revocation process.

HUNTZINGER did not provide any information for the FPC's consideration.

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.

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 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 characteristics of being just, impartial, or fair.

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 Driving While Suspended 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.

SPECIFIC TO THIS CASE:

OAR 259-009-0070(4) specifies the discretionary disqualifying conviction of Encouraging Child Sexual Abuse in the Second Degree [ORS 163.686] as violating Category III, Justice, based on the elements of the crime.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, OAR 259-009-0070(7)(d) provides that the FPC and Board will consider aggravating and mitigating circumstances including, but not limited to the following:

(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.

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.

ACTION ITEM 1:

Staff requests the Fire Policy Committee review the matter and make a recommendation to the Board whether or not to revoke HUNTZINGER'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 and articulate the **misconduct that is specific to this case**.
 - b. The identified conduct *did/did not* violate the core value of **Honesty**.
 - c. The identified conduct *did/did not* violate the core value of **Professionalism**.
 - d. The identified conduct *did/did not* violate the core value of **Justice**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Fire Policy Committee finds that HUNTZINGER's conduct, including the criminal conviction(s) and all mitigating and aggravating circumstances identified by the committee, *does/does not* rise to the level to warrant revocation of his certifications, and therefore recommends to the Board that HUNTZINGER's certifications be *revoked/not revoked*.

ACTION ITEM 2: (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 re-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*.

Dave Jones moved that the Committee adopts the staff report as the record on which their recommendations are based. Jamie Paul seconded the motion. The motion carried unanimously.

By discussion and consensus:

- a. Identify and articulate the misconduct that is specific to this case.
Encouraging Child Sexual Abuse in the Second Degree is a discretionary disqualifying crime, for purposes of certification.
- b. The identified conduct **did** violate the core value of Honesty.
- c. The identified conduct **did** violate the core value of Professionalism.
- d. The identified conduct **did** violate the core value of Justice.

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

The FPC identified the following conduct as mitigating circumstances:

- There were no mitigating circumstances identified.

The FPC identified the following conduct as aggravating circumstances:

- His failure to provide information for their consideration.
- His conduct could result in the public's loss of confidence that he possess the core values integral to the fire service profession.
- His conviction occurred during his time in the fire service and he failed to report his conviction.

Jamie Paul moved that the Committee finds that HUNTZINGER's misconduct and criminal conduct identified by the committee, does rise to the level to warrant revocation of his certifications and therefore recommends to the Board that HUNTZINGER's certifications be revoked. Dave Jones seconded the motion. The motion carried unanimously.

Alan Ferschweiler moved that the Committee recommends to the Board that HUNTZINGER's initial minimum period of ineligibility to re-apply for certification would be seven years. Erin Janssens seconded the motion. The motion carried unanimously.

7. Round Table/Staff Update

Julie Olsen-Fink reported:

- Barbara Slinger is a new full-time employee in the Fire Certification Program. She was on a limited duration position in Standards & Certification and has replaced Theresa Mills who has taken a promotion within the agency.
- Still looking for Task Force participants for NFPA 1035 Standard for Fire and Life Safety Educator, and Oregon Standard Urban Search and Rescue (USAR).
- The Task Force for Oregon Standard Maritime Fire Service Operator will open up soon because there are folks interested in participating.
- The Oregon Fallen Fire Fighter Memorial is on September 19, 2013 at 1:00 PM at DPSST. All people interested in participating are welcome.
- DPSST sent out the International Fire Service Training Association (IFSTA) 6th Edition. Chapter 5 and 6 seemed to be combined into one chapter. It's a nationwide issue and IFSTA is sorry for any confusion.
- Julie has created a quarterly District Liaison Officer (DLO) newsletter which will be posted on DPSST's website. This will allow the DLOs to receive updated information directly, such as decisions made at FPC, and will focus on different DLO's activity in their specific parts of the state.

Eriks Gabliks reported:

- DPSST's budget was up for work session yesterday. The Fire Insurance Premium Tax was raised from 1% to 1.15%. This is now at the current service level for 2013-2015 so DPSST will not be losing any personnel, Fire Marshal stays status

quo, as does State Police Arson & Explosives. The current vacancy in the Pendleton Field Office can now be filled.

- DPSST is working with the Oregon Department of Forestry (ODF), the National Guard, and the Governor's Office to get ready for wildfire season. DPSST's Fire Training Program supports ODF when they request National Guard assistance, by training those people for S-130 and S-190. A decision has been made in partnership with the National Guard that if troops are activated, they will be trained at DPSST which is closer to ODF logistics.
- Eriks, Portland Fire & Rescue, and Tualatin Valley Fire & Rescue met with the Federal Highway Administration and Oregon Transportation on Traffic Incident Management about training for all of the emergency service responders, not just police, fire, and medical, but also tow truck organizations and highway responders so everyone is working off the same page and using the same language. They have developed a four-hour train-the-trainer class that Oregon will be hosting in September. There isn't federal funding to help deliver this to 10,000+ people across the state, but there will be an online program equivalent to the hands-on class available after the first of the year,
- On Tuesday, Eriks will be going to Washington County. Western Washington Fire Training Association is hosting three providers of distance learning classes for Fire Fighter I & II. That is an emerging area for the industry.
- DPSST is hosting the Stress First Aid class today for fire from the National Fallen Fire Fighters Foundation. Agencies statewide are involved.
- FEMA is bringing Incident Management Team (IMT) classes to DPSST this fall and winter. Two classes are in the Rogue Valley area currently before fire season starts.
- Michelle Stevens has termed out as the Fire Marshal's Representative on FPC. Oregon Fire Marshals Association (OFMA) is looking for a replacement and they should be onboard for the next meeting in August.
- Jeff Jones is now retired, but has agreed to stay on the FPC representing OFCA.

The next scheduled meeting is August 28, 2013.

Meeting adjourned at 11:18 a.m.