

OREGON DPSST
ETHICS BULLETIN
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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 **November 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.

November Statistics

Cases Opened	29	Of the 24 Cases Closed:	
Cases Closed	24	Revoked	10
Cases Pending	179	Denied	00
		No Action	14

Officer A was discharged for cause for violating agency policies and procedures, failing to consistently arrive at work, and untruthfulness. Officer A was issued a Notice of Intent to Revoke Certifications. She did not make a timely request for a hearing and was subsequently issued a Default Final Order Revoking Certifications. Officer A's misconduct ended her 10-year career. **Officer A's Basic and Intermediate Corrections Certifications were Revoked.**

Officer B was discharged for cause after an internal investigation revealed that he engaged in a pattern of poor decision-making involving the use of his emergency vehicle, which continued after remedial training and progressive discipline. Officer B was issued a Notice of Intent to Revoke Certifications. Officer B made a timely request for a hearing. DPSST filed a Motion for Ruling on Legal Issues (Summary Determination) with the Administrative Law Judge (ALJ) asserting that there was no genuine issue as to any material fact that is relevant to resolution of the legal issues for which a decision is sought. Ultimately the ALJ granted the Motion and Affirmed DPSST's decision to revoke Officer B's certification. DPSST issued a Final Order Revoking Certification. Officer B's misconduct ended his 2-year career. **Officer B's Basic Police Certification was Revoked.**

Officer C was discharged for cause after the District Attorney in his jurisdiction advised the agency head that because of serious doubts about Officer C's credibility, he would no longer be used as a state's witness. The employer found that since Officer C was precluded from testifying

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in criminal court proceedings, he was no longer qualified to perform the requisite duties of a police officer. Officer C was issued a Notice of Intent to Revoke Certifications. Officer C made a timely request for a hearing. DPSST filed a Motion for Ruling on Legal Issues (Summary Determination) with the Administrative Law Judge (ALJ) asserting that there was no genuine issue as to any material fact that is relevant to resolution of the legal issues for which a decision is sought. Ultimately the ALJ granted the Motion and Affirmed DPSST's decision to revoke Officer C's certification. DPSST issued a Final Order Revoking Certification. Officer C's misconduct ended his 5-year career.

Officer C's Basic Police Certification was Revoked.

Officer D was discharged for cause after he had misrepresented facts in numerous affidavits for search warrants of private residences. The agency head had an outside agency conduct an internal investigation. This matter was also referred to the District Attorney who ultimately declined to use Officer D as a state's witness. Officer D grieved the discharge and through arbitration, Officer D was reinstated; the arbitrator found that the underlying misconduct had occurred but did not feel the misconduct warranted termination. DPSST presented this case to the Police Policy Committee which determined that Officer D's misconduct violated the established moral fitness standards and recommended revocation. The Board affirmed the Policy Committee's recommendation. DPSST issued a Notice of Intent to Revoke Certifications and Officer D made a timely request for a hearing. Additional acts of misconduct by Officer D were uncovered prior to the contested case hearing. Two instances had occurred prior to the misconduct involving affidavits. One occurred while officer D was on limited duty because he could not be used as a state's witness. In that instance, Officer D intervened in a traffic stop which resulted in the driver handing over a large amount of narcotics to him. When the primary officer asked what he was supposed to do with the discovered narcotics, Officer D told him to "pretend I wasn't here." The District Attorney declined to file felony charges against the suspect. A hearing was held before an Administrative Law Judge who subsequently issued a Proposed Order revoking Officer D's certifications. Officer D filed exceptions; after a review of the exceptions a Final Order was issued revoking Officer D's certifications. Officer D's misconduct ended his 19-year career.

Officer D's Basic and Intermediate Police Certifications were Revoked.

Officer E resigned in lieu of termination after an internal investigation revealed that he was driving while his driver's license was suspended, that he engaged in sexually explicit conversations after being told by his employer not to do so, and engaged in a relationship with a paroled sexual offender. DPSST presented this case to the Corrections Policy Committee which determined that Officer E's misconduct violated the established moral fitness standards and recommended revocation. The Board affirmed the Policy Committee's recommendation. DPSST issued a Notice of Intent to Revoke Certifications. Officer E did not make a timely request for a hearing. Officer E's misconduct ended his 4-year career.

Officer E's Basic Corrections Certification was Revoked.

Officer F resigned while under investigation for conduct that included being untruthful with a fellow officer regarding the driving status of an individual driving Officer F's vehicle, engaging in inappropriate sexual behavior while on duty, and being untruthful during the internal investigation. Officer F also committed traffic violations and allowed traffic violations to be committed in his presence when he used his police vehicle to race a citizen and clocked the speed of other racers using his agency-owned radar equipment. DPSST presented this case to the Police Policy Committee which determined that Officer F's misconduct violated the established moral fitness

standards and recommended revocation. The Board affirmed the Policy Committee's recommendation. DPSST issued a Notice of Intent to Revoke Certifications. Officer F did not make a timely request for a hearing. Officer F's misconduct ended his 8-year career.

Officer F's Basic, Intermediate and Advanced Police Certifications were Revoked.

Officer G, an agency head, resigned and his case was subsequently heard before the Police Policy Committee and the Board. At issue in this case was whether Officer G was untruthful in statements he made to the media and public regarding the status of his certification. After considering the fact pattern, the Police Policy Committee determined that Officer G's conduct fell below the minimum standards for Oregon public safety officers and recommended Officer G's certification be revoked. The Board affirmed the Committee's recommendation. Officer G was issued a Notice of Intent to Revoke Certification. Officer G made a timely request for a hearing. DPSST filed a Motion for Ruling on Legal Issues (Summary Determination) with the Administrative Law Judge (ALJ) asserting that there was no genuine issue as to any material fact that is relevant to resolution of the legal issues for which a decision is sought. Ultimately the ALJ granted the Motion and Affirmed DPSST's decision to revoke Officer G's certification. The ALJ found that, "petitioner was dishonest in the statements that he made." DPSST issued a Final Order Revoking Certification. Officer G's misconduct ended his 16-year career.

Officer G's Basic Police Certification was Revoked.

Officer H was discharged for cause after an internal investigation revealed that he had violated agency policies and engaged in conduct unbecoming of an officer. Officer H 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. Officer H's misconduct ended his 13-year career.

Officer H's Basic and Intermediate Police Certifications were Revoked.

Officer I was convicted of two counts of Encouraging Child Sex Abuse and One count of Unlawful Delivery of a Controlled Substance within 1000 feet of a School, mandatory disqualifying crimes. Officer I 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 I's misconduct ended his 1-year career.

Officer I's Basic Corrections Certification was Revoked.

Officer J resigned after an internal investigation revealed that he violated agency policy regarding safety and security checks of inmates, was untruthful about his actions, and used an agency computer to access pornography. DPSST presented this case to the Corrections Policy Committee which determined that Officer J's misconduct violated the established moral fitness standards and recommended revocation. The Board affirmed the Policy Committee's recommendation. DPSST issued a Notice of Intent to Revoke Certifications. Officer J did not make a timely request for a hearing. Officer J's misconduct ended his 17-year career.

Officer J's Basic Corrections Certifications as Revoked.

Updated Administrative Rules go into effect January 1, 2009.

Over the past couple of years, readers have been able to follow the progress of the constituent work group's efforts to update the Administrative Rules governing denial and revocation of certifications. Preliminary rule language was sent to every agency and association for comment, followed by an official public comment period when the policy committees and Board voted to open the proposed rules for comment. In response to the comments received, a number of additional changes and clarifications were made to the proposed rules. The final rules were reviewed again, recently approved by the policy committees and Board, and will become effective January 1, 2009. Some key changes in the new rules include:

Categories of Misconduct Identified

The rules now identify consistent categories of misconduct that may rise to the level of revocation or denial, whether the misconduct occurs in the criminal, employment, or moral (professional) fitness environment. These categories include Dishonesty, Disregard for the Rights of Others, Gross Misconduct, Incompetence, Misuse of Authority, Misconduct, and Insubordination.

Minimum Initial Periods of Ineligibility

For discretionary disqualifying misconduct, the policy committees and Board will set a minimum initial period of ineligibility on a case-by-case basis. This period will be based on the category of misconduct and the aggravating or mitigating factors in each case.

Eligibility to Reapply – Reapplication Process

For discretionary disqualifying misconduct, once the minimum initial period of ineligibility has passed, an individual may submit a request for an eligibility determination. The policy committee and Board will review the matter to determine if the factors that led to denial or revocation have been sufficiently mitigated. If so, then the individual may seek public safety employment knowing that they would be eligible for certification if employed in a certifiable position. If not, then the revocation or denial remains permanent.

Impact of Arbitration on Licensing (Certification)

The new rule documents DPSST's policy with regard to employment arbitration. In essence, if an arbitrator finds that the underlying facts supported an employer's allegation(s) of misconduct, then regardless of the arbitrator's decision in the employment matter, DPSST as the licensing body will independently review the misconduct to see if it falls within the misconduct categories for purposes of revocation. However, if the arbitrator finds that the underlying facts did not support the employer's allegation(s), then DPSST will close the matter administratively.

Moral Fitness

The definition of moral fitness (found in OAR 259-008-0010) has also been radically changed to reflect the workgroup's efforts. Lack of moral fitness is now identified as mandatory or discretionary disqualifying misconduct, which have been defined in the categories above.

You can review the new rules on DPSST's website at <http://www.oregon.gov/DPSST/SC/ADMINTEST.shtml>. The official rules should be on the Secretary of State's website in early December.

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

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