

Fire Policy Committee Minutes
February 22, 2023

The Fire Policy Committee (FPC) of the Board on Public Safety Standards and Training (Board) held a regular meeting on November 30, at 9:00 a.m. in the Boardroom at the Oregon Public Safety Academy located at 4190 Aumsville Hwy SE, Salem, Oregon. The meeting was called to order at 9:00 a.m.

Committee Members:

James Oeder, Chair, Oregon Volunteer Firefighters Association
Sara Boone (Designee Ryan Gillespie), Portland Fire & Rescue
Darren Bucich, Oregon Fire Chiefs Association
Rose Douglass, Oregon Fire Training Association
Tim Holschbach, Forest Protection Agencies
Mark Kreutzer, Oregon Fire District Director's Association
Vacant, Oregon State Fire Fighters Council
Andre Lindauer, Public Member
TaiLese Swanson, Community College Fire Programs
Gert Zoutendijk, Oregon Fire Marshals Association

Absent Members:

Mariana Ruiz-Temple (Designee Claire McGrew), Oregon State Fire Marshal
Jim Adams, Oregon State Fire Fighters Council

DPSST Staff:

Julie Olsen, Fire Program Manager
Michael Anderson, Facilities & Fleet Manager
Jennifer Howald, Rules Coordinator
Kayla Ballrot, Fire Certification Supervisor
Brooke Bell-Urbe, Fire Certification Specialist
Julia Budlong, Fire Program Support Specialist



1. Introductions

Introductions of members and staff were presented.

2. ***Minutes**

Approve the November 30, 2022, Meeting Minutes.

- *TaiLese Swanson moved that the committee approve the minutes of the November 30, 2022, FPC meeting. Mark Kreutzer seconded the motion. The motion passes unanimously.*

3. ***Cantelon, Nicholas E. DPSST #32751**

Presented by Brooke Bell-Uribe

The Department of Public Safety Standards and Training (DPSST) received an E-1 Application for Certification Eligibility Form (E-1 Form) for Nicholas Cantelon on September 2, 2021, and later an application for certification. During their routine background and criminal history check on E-1 Forms and applications for certification, DPSST staff found Cantelon had criminal convictions in his history. On February 27, 2018, Cantelon plead guilty to and was convicted of Assault in the Fourth Degree, Oregon Revised Statutes (ORS) 163.160(2), and Attempt to Commit a Class C/Unclassified Felony, ORS 161.405(2)(d), both Class A misdemeanors in the state of Oregon. These convictions carry a sentence of which more than 30 days but not more than 364 days may be imposed. The presentation of this case was significantly delayed by the request for police reports from the Portland Police Bureau which was understaffed and working through a backlog of records requests.

Due to the misdemeanor conviction which occurred in the last five years and the underlying conduct that involves violence against a person, this case requires review by the FPC.

Vote/Consensus	Second	Vote	Outcome
Mark Kreutzer moved that the FPC adopt the staff report as the record upon which its recommendations are based.	Andre Lindauer	9 ayes	Motion passes unanimously
The FPC found that nature of the incident being violence against another individual with injury to be considered as an aggravating circumstance .			
The majority of the FPC found that the length of time since the incident took place, letters of support, and accountability for his actions to be considered as mitigating circumstances .			
After considering the totality of the case Andre Lindauer made a motion moved to recommend a vote of <i>No Action</i> to the Board for Cantelon's application for certifications.	Darren Bucich	9 ayes	Motion passes unanimously

4. ***Moore, Skyler DPSST #42135**

Presented by Brooke Bell-Uribe

DPSST received an application for certification for Skyler Moore on August 24, 2022. During their routine background and criminal history check on applications for certification, DPSST staff found Moore had a criminal conviction in his history. On November 5, 2021, Moore plead guilty to and was convicted of Reckless Driving, ORS 811.140, a Class A misdemeanor in the state of Oregon. This conviction carries a sentence of more than 30 days but not more than 364 which may be imposed.

Due to the misdemeanor conviction which occurred in the last five years and the underlying conduct that involves property damage this case requires review by the FPC.

Vote/Consensus	Second	Vote	Outcome
Gert Zoutendijk moved that the FPC adopt the staff report as the record upon which its recommendations are based.	Tim Holschbach	9 ayes	Motion passes unanimously
The FPC found that his dishonesty with law enforcement, having passengers in the vehicle, and being under 21 at the time of the incident to be considered as aggravating circumstances.			
The majority of the FPC found that the completion of the diversion program, understanding the consequences of his actions, and his progress made since the incident to be considered as mitigating circumstances.			
After considering the totality of the case TaiLese Swanson moved to recommend a vote of <i>No Action</i> to the Board for Moore's application for certifications.	Andre Lindauer	9 ayes	Motion passes unanimously

5. *** Proposed Rule Changes for Oregon Administrative Rule (OAR) 259-009-0120**

Presented by Jennifer Howald

The Department will open a discretionary professional standards case when a fire service professional has a conviction that falls within the scope of the standards adopted by the FPC and the Board in Oregon Administrative Rule (OAR) 259- 259-009-0120 (3). These standards include:

- Felony convictions that occur while certified as a fire service professional or within the 10 years prior to an application for certification; and
- Misdemeanor convictions that occur while certified as a fire service professional or within the 5 years prior to an application for certification AND the crime or the underlying conduct have specific elements that are listed in the rule.

The rule does not use the terms “felony” and “misdemeanor” because a crime committed in another jurisdiction may not be the same classification used in Oregon laws. However, most jurisdictions use similar sentencing for terms of imprisonment. Felonies usually include sentencing for more than one year and misdemeanors usually include sentencing for less than one year.

The current rule language uses “a term of imprisonment of more than 30 days but not more than 364 days” to identify convictions considered misdemeanors in Oregon and subject to discretionary review by the FPC. Department staff, in consultation with the Department of Justice, have determined that as written the following convictions are unintentionally excluded from review.

- Convictions from a jurisdiction that allows a sentence of 365 days, exactly one year; and
- Convictions resulting in a sentence of 30 days or less where the crime or the underlying conduct includes dishonesty or deceit, a sexual offense, a drug offense, discrimination, destruction of property, a crime against a public agency, illegal use or possession of a deadly weapon, or violence, abuse or neglect against a person or animal.

In Oregon, the maximum term of imprisonment for a misdemeanor is 364 days. Other jurisdictions allow sentences of 365 days. Changing the “not more than 364 days” to “not more than one year” will correct the unintended exclusion of a conviction occurring in another jurisdiction that results in a sentence of exactly one year.

In Oregon, a term of imprisonment that is 30 days or less corresponds with a Class C misdemeanor. In the past, the FPC only reviewed Oregon Class A and B misdemeanors, or the equivalent from another jurisdiction. In recognition that the current standards consider the elements of the crime and the underlying conduct, deleting the 30 days from the rule and allowing review of Oregon Class C misdemeanors, or the equivalent, is not expected to increase the number of professional standards cases the FPC reviews. This change will allow consistent application of the standards to all misdemeanor convictions from all jurisdictions.

- *The FPC affirms the fiscal impact statement presented by staff.*
- *Gert Zoutendijk moved to recommend that the Board approve filing the proposed rule changes for OAR 259-009-0120 as a permanent rule. Mark Kreutzer seconded the motion. Motion passes unanimously 9 to 0.*

6. Agency Updates

Kayla Ballrot Presents:

- Maintenance Re-Certification entered and completed.
- 76 departments did not submit Maintenance Re-Certification documents.
- Fingerprint Audit complete. There will be an FBI Privacy Act Statement attached to applications for certifications moving forward.

Julie Olsen Presents:

- A welcome to the new FPC Public Member, Andre Lindauer.
- A welcome to the new agency Director, Phil Castle.
- Moving forward with open recruitments for two coordinator positions and one trainer position.
- Winter Fire School occurring on 2/25-2/26, and Spring Fire School occurring on 4/15-4/16.
- Recognize Fallen Gresham Fire & EMS Firefighter, Brandon Norbury.
- Recognize Active-Duty Firefighter Death, Greg Backstrom.
- Money still available for delivery of Oregon State Fire Marshal (OSFM) grants.
- Tracking House Bill 2484-Urban Search and Rescue.

7. Next Fire Policy Committee Meeting – May 24, 2023, at 9:00 a.m.

Meeting is adjourned at 10:00 a.m.