

Fire Policy Committee Minutes

May 25, 2022

The Fire Policy Committee (FPC) of the Board on Public Safety Standards and Training (Board) held a regular meeting on May 25, 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
Mariana Ruiz-Temple (Designee Claire McGrew), Oregon State Fire Marshal
Darren Bucich, Oregon Fire Chiefs Association
Richard Cearns, Oregon Fire Instructor Association
Tim Holschbach, Forest Protection Agencies
Mark Kreutzer, Oregon Fire District Director's Association
Kevin Larson, Oregon State Fire Fighters Council
Vacant, Community College Fire Programs
Gert Zoutendijk, Oregon Fire Marshals Association

Absent Members:

Jim Adams, Oregon State Fire Fighters Council
Sara Boone (Designee Ryan Gillespie), Portland Fire & Rescue
Bruce Riley, Public Member

DPSST Staff:

Julie Olsen, Fire Program 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 February 23, 2022 Meeting Minutes.

- *Mark Kreutzer moved that the committee approve the minutes of the February 23, 2022 FPC meeting. Kevin Larson seconded the motion. The motion passes unanimously.*

3. *Andry, Brett DPSST #25852 Presented by Brooke Bell-Urbe

The Department of Public Safety Standards and Training (DPSST) received an arrest alert from the Law Enforcement Data System (LEDS) that Brett Andry was arrested for Online Sexual Corruption of a Child and Luring a Minor on August 25, 2020. On September 22, 2021 Andry pled guilty to and was convicted of Luring a Minor, a Misdemeanor Class A, a crime for which a term of imprisonment of more than 30 days but not more than 364 days may be imposed. Andry’s conduct violates the core values of integrity and professionalism.

Due to the misdemeanor conviction occurring within the last five years and the underlying conduct that is a sexual offense, 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.	Richard Cearns	8 ayes	Motion passes unanimously
The FPC found Andry’s inappropriate communications with a police officer posing as a minor and his dishonesty with police about the age of the minor to be considered as aggravating circumstances .			
The majority of the FPC found Andry’s character reference letters, support from his agency, and his verbal presentation to be considered as mitigating circumstances .			
After considering the totality of the case Kevin Larson moved to recommend a vote of <i>No Action</i> to the Board for Andry’s certifications.	Claire McGrew	8 ayes	Motion passes unanimously

4. *Russell, Tammy J. DPSST #41566 Presented by Brooke Bell-Urbe

DPSST received an application for Tammy J. Russell in December of 2021. While doing a routine criminal history check DPSST staff found Russell had a criminal conviction in her history. During research into this conviction staff found that Russell plead guilty to and was convicted of Violation of Wildlife Law with a Culpable State of Mind, a Class A Misdemeanor, on August 27, 2021.

Due to the misdemeanor conviction and the underlying conduct that involved dishonesty this qualifies as a discretionary disqualifying conviction for the FPC to review.

Vote/Consensus	Second	Vote	Outcome
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Kevin Larson moved that the FPC adopt the staff report as the record upon which its recommendations are based.	Mark Kreutzer	7 ayes 1 abstain (Cearns)	Motion passes
The FPC found no aggravating circumstances .			
The majority of the FPC found that Russell not being part of the Fire Service at the time of the incident to be considered as mitigating circumstances .			
After considering the totality of the case Mark Kreutzer moved to recommend a vote of <i>No Action</i> to the Board for Russell's certifications.	Kevin Larson	6 ayes 1 nay (Oeder) 1 abstain (Cearns)	Motion passes

5. * Southworth, Lemont DPSST #37547 Presented by Brooke Bell-Uribe

On January 27, 2020 DPSST staff received an application for National Fire Protection Association (NFPA) Fire Fighter I for Lemont Southworth. On December 27, 2021 DPSST received fingerprint results for Southworth that showed he had a criminal conviction in his history. On July 20, 2017 Southworth plead No Contest to and was convicted of Attempted Access Pornographic or Indecent Material on School Property, a class B Misdemeanor in the State of Utah. This conviction is punishable by up to six months in jail.

Due to the misdemeanor conviction which occurred in the last 5 years and the underlying conduct that involves a sexual offense, this qualifies as a discretionary disqualifying conviction for the FPC to review.

Vote/Consensus	Second	Vote	Outcome
Mark Kreutzer moved that the FPC adopt the staff report as the record upon which its recommendations are based.	Richard Cearns	7 ayes 1 abstain (Bucich)	Motion passes
The FPC found the inappropriateness of the video content to be considered as aggravating circumstances .			
The majority of the FPC found that the amount of time since the incident occurred, Southworth's honesty with law enforcement, and not being part of the Fire Service at the time of the incident to be considered as mitigating circumstances .			
After considering the totality of the case Gert Zoutendijk moved to recommend a vote of <i>No Action</i> to the Board for Southworth's certifications.	Mark Kreutzer	7 ayes 1 abstain (Bucich)	Motion passes

6. Administrative Actions

Presented by Brooke Bell-Uribe

Stock, John DPSST # 09876- Discharge for Cause

John Stock was affiliated with Dundee Fire Department and is certified as NFPA Driver, NFPA Pumper Operator, First Responder Operations, Wildland Interface Fire Fighter, NFPA Fire Fighter I, NFPA Fire Fighter II, NFPA Fire Instructor I and NFPA Fire Officer I. On or around August 20, 2020 Dundee Fire Department discharged Stock from the department. Subsequently, DPSST Fire Certification staff requested the termination letter and underlying investigation that led to his discharge. Upon review, staff determined Stock's discharge meets the Board's established definition of a discharge for cause as defined in Oregon Administrative Rule (OAR) 259-009-0120 due to his behavior of on-going harassment of his employees at Dundee Fire Department over the course of several years.

Staff has issued Stock a Notice of Intent to Revoke Certifications and Proposed/Final Order on Default.

7. *Proposed Rule Changes for Oregon Administrative Rule OAR 259-009-0125 - Establishing the Reapplication Process Following a Denial or Revocation for Falsification Presented by Jennifer Howald

Background:

On February 23, 2022, DPSST requested the FPC review the rules and processes to reapply for certification after a denial or revocation for discretionary grounds. The issue is that the current rules and processes do not include any guidance on how DPSST staff should handle applications for certification submitted after a denial or revocation resulting from falsification.

Discretionary cases for falsification are rare. These cases are only opened when DPSST staff have determined that the falsification was intentional. Mistakes, incomplete information, or other errors generally attributed to a misunderstanding related to the application or other documentation are not considered falsification. The policy discussion and rulemaking process will help DPSST process future cases and close the gap on the transition to the newer rule processes.

Under the current rules, a fire service professional can reapply for certification one year after their denial or revocation for falsification and receive certification. There is no additional review of the case before issuing the certifications. After review and discussion of several policy options, the FPC recommended establishing a process that would require additional review for any application submitted by a fire service professional who was denied or revoked for falsification. The FPC found, based on the egregiousness of falsification cases, that any application submitted within 10 years of the denial or revocation for falsification should be reviewed before certifications may be issued.

After consideration of the FPC recommendation and the statutory authority for denial and revocation of fire service professional certifications, DPSST determined the following process falls under the statutory authority to adopt rules governing reapplication for certification.

- If an application is received and the fire service professional was denied or revoked for falsification within the past 10 years, DPSST staff will open a case for FPC review.
 - o The 10-year period begins with the date the Board approved the denial or revocation action.
 - o The 10-year period includes the one year that must pass after the Board approves the denial or revocation before the fire service professional can reapply for certification. This is not in addition to the one year.
- The FPC will review the circumstances of the case again and any additional mitigation. Additional mitigation will always include consideration of the additional time that has passed since the conduct and the denial or revocation action occurred.
 - o The review allows the FPC to continue to consider the egregiousness of the falsification to determine if there is still an impact on certification as a fire service professional.
- The FPC may recommend denial each time the case is reviewed.
- Eventually, the passage of time means that the past denial or revocation for falsification will no longer require review.
 - o Once the 10 years have passed, the past denial or revocation for falsification will not require any additional FPC review when the fire service professional reapplies for certification.
- Alternatively, if at any time within the 10 years, the FPC and the Board no longer deny the reapplication for certification then DPSST may issue certifications. The past denial or revocation for falsification will no longer require a review.
- *The FPC affirms the fiscal impact statement presented by staff.*
- *Mark Kreutzer moved to recommend that the Board approve filing the proposed rule changes for OAR 259-009-0125 as a permanent rule. Richard Cearns seconded the motion. Motion passes unanimously.*

8. *Proposed Rule Changes for OAR 259-009-0005, OAR 259-009-0062, and OAR 259-009-0065 - Minimum Standards for NFPA Fire Investigator Certification

Presented by Kayla Ballrot

Background:

On April 5, 2022, the NFPA Fire Investigator Task Force convened at DPSST to review and discuss the NFPA 1033 Standard for Professional Qualifications for Fire Investigator, 2022 Edition. At present, the OAR for fire related to NFPA Fire Investigator refers to the 2014 Edition of the NFPA standard. It was the intent of the Task Force to evaluate the currently adopted standard and compare it against the 2022 Edition of NFPA 1033. As a result of their work, the Task Force established the

importance of the Oregon fire service maintaining the most current standards available from NFPA and made the recommendation to adopt the 2022 Edition of NFPA 1033 into OAR.

Recommendations:

The Task Force made the determination to adopt the 2022 Edition of NFPA 1033 into OAR to maintain both a consistency with other standards and to continue with the professionalism of having national standards for the Oregon fire service to attain and uphold.

The Task Force's discussions related to new updates of the standard included the recognition of additional requirements in the "General" section of NFPA 1033 chapter 4 that were not present in the 2014 Edition. In this chapter, there are several updates related to continuing education requirements for a certified NFPA Fire Investigator to remain current and knowledgeable in pertinent subjects. The Task Force determined it is best to capture these changes by creating an "Investigator Track" in the Maintenance Re-Certification OAR that aligns with the new NFPA standard on maintaining this certification. The new NFPA 1033 standard outlines in 4.1.7.3 that certified NFPA Fire Investigators are required to "complete and document a minimum of 40 hours of continuing education training every five years by attending formal education courses, workshops, and seminars" which would be the requirement of the newly established "Investigator Track". The "Investigator Track" would be in addition to the already established "Operations Track", "Instructor Track", and "Prevention/Public Education/Administration Track", all with specified hours to complete required service delivery, task performance, and/or continuing education and training to maintain certifications every two years. Though the newly proposed Maintenance Re-Certification requirement for NFPA Fire Investigators is 40 hours every five years per NFPA specifications, the process for fire service agencies to complete the paperwork for Maintenance Re-Certification will remain at every two years. It will be up to each Oregon fire service agency to ensure their NFPA Fire Investigators are meeting this requirement through courses, workshops, and/or seminars and that these trainings are documented properly. Agency designees tasked with completing the necessary documentation for Maintenance Re-Certification would need to ensure that the NFPA Fire Investigators at their department are taking the necessary steps toward meet this new obligation. This update would take effect in the 2022-2024 Maintenance Re-Certification cycle, giving DPSST time to educate the Oregon fire service on these new requirements. There are only approximately 140 NFPA Fire Investigators in the Oregon fire service, so the Task Force determined this new requirement would not put excessive burden on the Investigators themselves nor the individuals completing the Maintenance Re-Certification documentation for DPSST.

The remainder of changes/additions to the 2022 standard are semantical and would not have a major effect on the Oregon fire service.

- *The FPC affirms the fiscal impact statement presented by staff.*
- *Mark Kreutzer moved to recommend that the Board adopt the recommendations provided by the NFPA Fire Investigator Task Force. Gert Zoutendijk seconded the motion. Motion passes unanimously.*

- *Gert Zoutendijk moved to recommend that the Board on Public Safety Standards and Training approve filing the proposed rule changes for OAR 259-009-0005, OAR 259009-0062, and OAR 259-009-0065 as permanent rules.*

9. * Fallen Fire Fighter Memorial Wall Nomination-Lieutenant Jerry A. Richardson – Portland Fire & Rescue

Presented by Brooke Bell-Uribe

Background:

On November 19, 2021, Lieutenant Jerry Richardson lost his battle with cancer and passed away. He was diagnosed with mesothelioma, after serving as a firefighter and fire paramedic for over 34 years. Soon after the diagnosis, Richardson began cancer treatment. On December 3, 2018, the Bureau of Fire and Police Disability and Retirement administered Jerry’s claims for service-connected and occupational disability.

Applicable Criteria and Law:

The criteria for inclusion on the National Memorial regarding deaths resulting from cancer, refers to the criteria of the decedent’s home state’s occupational exposure presumption laws. Under Oregon Revised Statute (ORS) 656.802 (A) Occupational disease is defined as “(A) Any disease or infection caused by ingestion of, absorption of, inhalation of or contact with dust, fumes, vapors, gases, radiation or other substances.” It further explains that a firefighter whose death occurs after completing five or more years of service, caused by any disease of the lungs or respiratory tract shall be presumed as a result of their employment unless clear medical evidence shows otherwise.

Summary:

Due to the diagnosis of service-related cancer presumption related to occupational inhalation of asbestos particles which caused his cancer (mesothelioma) diagnosis, Richardson meets the criteria set by the National Fallen Fire Fighter Foundation for inclusion on the National wall.

- *Kevin Larson moved that the committee approve adding Jerry A. Richardson to the Oregon Fallen Fire Fighter Memorial Wall. Gert Zoutendijk seconded the motion. The motion passes unanimously.*

10. Program Manager Update

Kayla Ballrot Presents:

- Wildland Task Force will be meeting in the Fall.
- Maintenance Re-Certification reminder, documentation will be sent out on 6/1/22.

Julie Olsen Presents:

- Two successful candidates for the Southern Oregon and Eugene Springfield Region positions.
- Will be posting the additional Coordinator positions in the near future which includes the Northern Coastal Region and Salem/Polk Region.
- We are actively participating in the Fire Fighter Capacity Workgroups.
- Thank you to our partnerships and organizations throughout the state for hosting the reallocated National Fire Academy classes.
- DPSST will be partnering with Oregon State Fire Marshal to manage Wildland grant opportunities.
- DPSST has opened up Training Association grants, they will need to be closed out by May 2023.
- We are reengaging Skidtruck classes, please reach out to Julie or Kayla for scheduling.
- Needs Assessment QR code available in our Fire Program Newsletter.
- We are having conversations about the mental health issues within the Fire Service.

11. Agency Updates

- Currently working on 2023-25 Biennium
- DPSST Director's Position posted and managed through the Governor's Office and closes on 6/6/22.
- Campus is open but we are moving at a slow pace, any visitors need to have mission specific purpose to be onsite.

12. Next Fire Policy Committee Meeting – August 24, 2022, at 9:00 am.