

Fire Policy Committee Minutes

February 23, 2022

The Fire Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on February 23, 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 9:04 a.m.

Committee Members:

James Oeder, Chair, Oregon Volunteer Firefighters Association
Jim Adams, Oregon State Fire Fighters Council
Sara Boone (Designee Ryan Gillespie), Portland Fire & Rescue
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
Bruce Riley, Public Member
Paula Simone, Community College Fire Programs
Gert Zoutendijk, Oregon Fire Marshals Association

Absent Members:

Mariana Ruiz-Temple (Designee Claire McGrew), Oregon State Fire Marshal

DPSST Staff:

Jerry Granderson, Director
Brian Henson, Acting Deputy Director
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 November 17, 2021 Meeting Minutes.

- *Kevin Larson moved that the committee approve the minutes of the November 17, 2021 Fire Policy Committee (FPC) meeting. Mark Kreutzer seconded the motion. The motion passes unanimously.*

3. *Jesse West, DPSST No. 18744

Presented by Kayla Ballrot

In July of 2019, DPSST received an anonymous notice in the mail that a fire service professional at Lane Fire Authority, Jesse West, had been arrested and received a subsequent criminal conviction. Upon further review, DPSST staff learned that on February 21, 2019 West had been convicted of two counts of Assault in the Fourth Degree. West’s convictions were classified as a Misdemeanor Class A. DPSST staff determined that West’s conduct violated the core values of integrity and professionalism and that it fell within the five-year look back period for misdemeanor convictions, requiring review by the Policy Committee to determine if action or no action should be taken against West’s certifications. In 2020, DPSST staff presented this case to the Policy Committee as discretionary disqualifying convictions under the previous Oregon Administrative Rules (OAR) related to revocation and denial of fire certifications. The Policy Committee recommended to the Board on Public Safety Standards and Training (Board), and the Board later affirmed, the revocation of West’s certifications for three years from the date of his convictions. The case went before the Policy Committee again in 2021 and again they recommended to revoke.

DPSST staff has requested the Policy Committee meet to review this matter to potentially consider new mitigation

Vote/Consensus	Second	Vote	Outcome
Mark Kreutzer moved that the FPC adopt the staff report as the record upon which its recommendations are based.	Gert Zoutendijk	11 ayes	Motion passes
The FPC found that West being employed in public safety and holding fire certifications at the time of the incident to be considered as aggravating circumstances .			
The majority of the FPC found West’s character reference letters, support from agency, his verbal presentation, the time that had lapsed since the incident, successful completion of probation against his Emergency Medical Services certification(s), and completion of counseling and probation 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 West’s certifications.	Mark Kreutzer	10 ayes 1 nay (Simone)	Motion passes

4. Administrative Actions

Presented by Brooke Bell-Urbe

Hertzog, Scott D. DPSST #13051 – Discharge for Cause

Hertzog was affiliated with Tualatin Valley Fire & Rescue and is certified as an NFPA Driver, NFPA Pumper Operator, NFPA Wildland Fire Operator, NFPA Mobile Water Supply Operator, NFPA Apparatus Equipped with an Aerial Device, First Responder Operations, Wildland Interface Fire Fighter, Advanced Wildland Interface Fire Fighter (FFT1), Engine Boss, Single Resource (ENGB), NFPA Fire Fighter I, NFPA Fire Fighter II, NFPA Fire Instructor I, NFPA Fire Officer I and Basic Fire Fighter. On or around March 3, 2021 Tualatin Valley Fire & Rescue discharged Hertzog from their fire service agency. Subsequently, Department of Public Safety Standards and Training (DPSST) Fire Certification staff requested the termination letter and underlying investigation that led to his discharge. Upon review, staff determined that Hertzog's discharge meets the Board on Public Safety Standards and Training's (Board) established definition of a discharge for cause as defined in Oregon Administrative Rule (OAR) 259-009-0120 due to his behavior of intentional fraud against Tualatin Valley Fire & Rescue over the course of three years.

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

Coleman, Kyle D. DPSST #25406 – Discharge for Cause

Coleman was affiliated with Harbor RFPD and is certified as an NFPA Fire Fighter I. On or around March 1, 2020 Harbor RFPD discharged Coleman from their fire service agency. Subsequently, DPSST Fire Certification staff requested the termination letter and underlying investigation that led to his discharge. Upon review, staff determined that Coleman's discharge meets the Board's established definition of a discharge for cause as defined in OAR 259-009-0120 due to his behavior of multiple instances of intentional theft from Harbor RFPD.

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

5. * William E. Eddy, DPSST No. 25304

Presented by Brooke Bell-Urbe

In September of 2021, DPSST received notice that William Eddy had a criminal conviction in his history. During research into this conviction staff found that Eddy was convicted on September 8, 2021 of Harassment, a Gross Misdemeanor, in the state of Washington. A conviction for which the maximum sentence is punishable by imprisonment for up to 364 days and fines of up to \$5,000.00. This conviction was the result of a domestic violence incident Eddy was arrested for in July of 2019.

Due to the misdemeanor conviction and the underlying conduct that involved violence against another person and destruction of property, this qualifies as a discretionary disqualifying conviction for the Fire Policy Committee to review.

Vote/Consensus	Second	Vote	Outcome
Gert Zoutendijk moved that the FPC adopt the staff report as the record upon which its recommendations are based.	Mark Kreutzer	10 ayes 1 abstain (Larson)	Motion passes
The FPC found the nature of the crime, Eddy’s active probation and that it appears he was dishonest with the officers about the incident to be considered as aggravating circumstances .			
The majority of the FPC found Eddy’s character reference letters, his fire agency support and his verbal presentation to be mitigating circumstances .			
After considering the totality of the case Bruce Riley moved to recommend a vote of <i>Action</i> to the Board for Eddy’s certifications.	Paula Simone	7 ayes 3 nays (Oeder, Adams, & Zoutendijk) 1 abstain (Larson)	Motion passes

6. * Proposed Rule Change for OAR 259-009-0059 – Minimum Standards for Certification

Presented by Jennifer Howald

Issue:

OAR 259-009-0059 (1) states that to be eligible for certification a fire service professional must not have a criminal history that would preclude the person from holding DPSST-issued fire service professional certifications. A complete copy of the rule is included in the proposed rule change section.

As written, the rule unintentionally neglects to include other grounds for denial or revocation of certification such as discharge for cause and falsification. These other grounds are also considered minimum standards for certification and are part of the process for determining a fire service professional’s eligibility for certification.

DPSST recommends amending the rule to include all grounds for denial or revocation.

The proposed rule language cites a range of rule numbers that cover all of the denial and revocation standards and processes that apply to fire service professional certifications. Referencing these rules not only identifies which criminal convictions impact certification, but

also defines what would be included as “other background.” For reference, the following list identifies each rule and how it applies to the amended minimum standard.

- *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 259-009-0059 as a permanent rule. Mark Kreutzer seconded the motion. Motion passes 10 to 0 with Kevin Larson abstaining.*

7. *OAR 259-009-0120 and OAR 259-009-0125 – Policy Review of Application for Certification Following a Denial or Revocation for Falsification

Presented by Jennifer Howald

Background:

Under ORS 181A.640 (3), DPSST may deny or revoke the certifications of a fire service professional based upon a finding that the fire service professional falsified any information submitted on the application for certification or any documents submitted to the Board on Public Safety Standards and Training (Board) or DPSST. This is a discretionary action. Falsification is included in OAR 259-009-0120 (3) with the other discretionary grounds for denial or revocation, which are based on criminal convictions.

Discretionary cases are 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.

Discretionary cases are presented to the Fire Policy Committee (FPC) for review. The FPC considers the facts and the aggravating and mitigating circumstances to determine if the misconduct impacts the fire service professional’s fitness for certification. The FPC recommendation to take action or not to take action is submitted to the Board for approval.

In discretionary cases where the fire service professional’s certifications are denied or revoked, the fire service professional may apply for certification after a minimum of one year has passed since the Board’s approval of the denial or revocation.

When an application is submitted, DPSST reviews the application and the standards in place at the time of the application. For cases related to a criminal conviction, DPSST will open a case for FPC review if the conviction still falls within the scope of review. Meaning, felony convictions within the past 10 years and misdemeanor convictions within the past 5 years result in additional discretionary review through the FPC.

The FPC will review the conviction and any additional mitigation, which will always include the passage of additional time, to determine if there is still an impact to certification as a fire service professional. With each review, the FPC would be able to recommend denial if there is still an adverse impact to fire certification.

Eventually, the passage of time means that the conviction would no longer require review. Once the felony conviction was older than 10 years or the misdemeanor conviction was older than 5 years, it would no longer be considered grounds for denial and would not require any additional FPC review when the fire service professional submits an application for certification.

Issue:

There isn't any guidance in rule or documented processes on how DPSST staff should handle applications for certification submitted after a denial or revocation for falsification.

DPSST requests that the Fire Policy Committee have a policy discussion on how a past denial or revocation for falsification would impact a future application for certification review and approval process.

Cases that are opened due to intentional falsification are rare. Having the policy discussion now will help DPSST process future cases and close the gap on the transition to the newer rule processes.

To help facilitate the policy discussion, DPSST staff prepared four options for FPC review and discussion. DPSST will then review the option selected by the FPC to identify any required rule or process changes. DPSST will report back to the FPC and present any rule changes for review and approval at a later FPC meeting.

Option 1 – No further action is taken.

Option 2 – The past history of falsification and denial/revocation for falsification requires review before certification can be approved.

Option 3 – Establish a maximum “look back” period.

Option 4 – Establish a different application waiting period for a denial or revocation based on falsification.

- *Bruce Riley moved to approve Option #3-Establish a maximum “look back” period of 10 years as the recommended process for DPSST to follow when an application for certification is submitted after the fire service professional was previously denied or revoked for falsification. Kevin Larson seconded the motion. Motion passes unanimously.*

8. *Fallen Fire Fighter Memorial Wall Nomination-Frumencio Ruiz Carapia – G.E. Forestry Inc.

Presented by Julie Olsen

Background:

On Monday, August 23, 2021, Firefighter/Squad Boss Frumencio Ruiz Carapia of G.E. Forestry Inc. was killed in the line of duty when he was struck by a falling tree. Life saving measures were attempted on scene; however, Firefighter/Squad Boss Ruiz Carapia succumbed to the trauma of his injuries at the site of the incident. Two other firefighters were transported with injuries but survived. Firefighter/Squad Boss Ruiz Carapia was part of a Type 2 Initial Attack hand crew working on the Gales Fire which was 14,000 acres and part of the larger Middle Fork Complex fires.

Summary:

Firefighter/Squad Boss Ruiz Carapia loss of life falls within the requirements to be honored on the National Memorial Wall in Emmitsburg, Maryland and is supported by the U.S. Fire Administration.

- *Gert Zoutendijk moved that the committee approve adding Frumencio Ruiz Carapia to the Oregon Fallen Fire Fighter Memorial Wall. Paula Simone seconded the motion. The motion passes unanimously.*

9. Program Manager Update

Kayla Ballrot Presents:

- Personnel/Agency Form Virtual Tutorial available on our website.
- NFPA Fire Investigator 2022 Edition is out, an announcement will be made in our March 1st Newsletter and through GovDelivery.

Julie Olsen Presents:

- We recently offered a NFPA Fire Officer II class on campus and was instructed by Lead Regional Coordinator John West.
- Winter Fire School was cancelled but we have been working with our regional partners to reallocate NFA classes throughout Oregon. This includes Ontario Fire Department, Umatilla Fire District #1, Hillsboro, Eugene Springfield Fire, and departments located in Central Oregon.
- Upcoming classes on campus are Leadership in Supervision occurring 3/7/22-3/12/22, Command and Control of Incident Operations occurring 4/18/22-4/23/22, and Plans Review for Fire Life Safety occurring 6/6/22-6/11/22. The Plans Review for Fire Life Safety class will be located at Tangent Rural Fire District.
- The Fallen Fire Fighter Memorial is scheduled for 6/9/22 here on campus. As it stands today, this will be the 4th name to be potentially added to the Fallen Fire Fighter Memorial Wall.
- Would like to recognize the Oregon State Fire Marshall for the overhead work put in to fallen fire fighter Austin Smith's memorial and provide noted appreciation to all who helped plan and show support.

- We are partnering with the Oregon Department of Forestry to offer training for Wildland FFT2 on campus. We are planning for late June or potentially early July.
- If anyone is interested in utilizing our tower or in need of outdoor training please get in touch with us to coordinate your needs.

10. Director's Comments

- Introduced the idea of a Medal of Ultimate Sacrifice for the Fire Service.
- DPPST is monitoring various Senate and House Bills and continues to support the Legislative decision-making process related to fiscal impact plans.
- The Commission on Standards and Conduct for Law Enforcement is ongoing and the first meeting will occur in March.
- Would like to thank Paula Simone for her service as a member on the Fire Policy Committee.

11. Next Scheduled FPC meeting –May 25, 2022 at 9:00am

Meeting is adjourned at 10:55 am.