

Fire Policy Committee Minutes

February 27, 2019 (Draft)

The Fire Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on, February 27, 2019 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 Vol. Fire Fighters Association
Jim Walker, Vice Chair, Oregon State Fire Marshal
Darren Bucich – Oregon Fire Chiefs Association
Mark Kreutzer, Oregon Fire Dist. Director’s Association
Paula Simone, Community College Fire Programs
Richard Cearns, Oregon Fire Instructors Association
Tom Williams representing Portland Fire & Rescue (non-voting member)
Kevin Larson, Oregon State Fire Fighters Council
John Rinier, Oregon Fire Marshals Association
Reverend Dr. Deborah Brown, Public Member

Absent Members:

Ron Graham, Forest Protection Agencies
Patricia Connolly, Non-Management Fire Fighter

DPSST Staff:

Linsay Hale, Professional Standards Division Director
Julie Olsen, Fire Program Manager
Jennifer Howald, Rules Coordinator
Barbara Slinger, Fire Program Support Specialist

Guests:

Daniel Gates, Portland Airport Fire & Rescue
Scott Stanton, Umatilla County Fire District #1



1. Introductions

Introductions of members, guests, and staff were presented.

2. *Minutes

Approve September 24, 2018 meeting minutes.

- *Jim Walker moved that the committee approve the minutes of the September 24, 2018 Fire Policy Committee meeting. Richard Cearns seconded the motion. The motion passes unanimously.*

3. *Review of Policy Committee Bylaws

Presented by Linsay Hale

The Criminal Justice Moral Fitness Workgroup was formed in 2018 to review and reconcile the unintended process and rule tensions created when the criminal justice denial, suspension and revocation standards were updated and implemented on August 1, 2017. The scope of the Workgroup's review includes criminal justice policy committee professional standards case review processes.

In an effort to enhance the professionalism of the criminal justice policy committee professional standards case review processes, the Workgroup recommended the following revisions to the criminal justice policy committee bylaws.

1. Expansion of the Board Chair authority to remove a policy committee member for non-participation, lack of preparation or unexcused absences.
2. Addition of mandatory Board/Policy Committee orientation training prior to participating in policy committee discussions and votes.
3. Addition of a requirement to record all member votes by conducting a verbal roll-call.
4. Addition of a definition for conflicts of interest.
5. Addition of a non-participation clause for a committee member who is the subject individual in an open DPSST professional standards case.

DPSST staff have determined that these recommendations may be universally appropriate for each policy committee and have prepared draft Fire Policy Committee Bylaws for the FPC to review.

- *Jim Walker recommended to the FPC to approve and adopt the amendments to the Fire Policy Committee Bylaws. Kevin Larson seconded the motion. The motion passes unanimously.*

4. *Proposed Rule Changes for OAR 259-009-0015– Background Investigations

Presented by Jennifer Howald

In order for a fire service professional to receive a DPSST number from the Department, their fire service agency must show the individual as affiliated with the fire service agency by submitting a personnel/agency form (PAF) or an application for personnel affiliation and certification eligibility (E-1). These forms require acknowledgement of the completion of the background investigation.

OAR 259-009-0015 outlines the requirements for background investigations. This administrative rule requires that the individual complete a notarized personal history statement related to the verification of their background information.

Recently, a rural fire service agency identified that the requirement for the personal history statement to be notarized creates an obstacle to completing affiliation with DPSST so that their fire service professionals may receive DPSST numbers and establish DPSST training records. Notary services may not be readily available in the rural fire service districts, creating a burden for an individual, who is often a volunteer firefighter, to arrange time and travel in order to access a public notary.

The proposed rule change, DPSST would like the FPC to consider whether or not the notarization requirement for the personal history statement should be removed. OAR 259-009-0015 would still require the fire service agency to conduct the background investigation and the individual would still be required to complete a personal history statement relating to the verification of their background information. Removal of the notarization requirement from rule would not prohibit a fire service agency from continuing to utilize a notary process as a part of their background investigation.

- *Jim Walker recommended to the Board to approve the proposed rule changes to OAR 259-009-0015 with the Secretary of State as a permanent rule if no comments are received. Richard Cearns seconded the motion. The motion passes unanimously.*
- *By consensus the FPC approved the fiscal impact statements prepared by staff.*

5. Five-Year Review for the Adoption of OAR 259-009-0015 – Informational Update

Presented by Jennifer Howald

ORS 183.405 requires agencies to conduct a review of the rules that they adopt. The review must occur within the five years following the adoption of the rule. The review is meant to assess the following:

- Whether the rule had its intended effect;
- Whether the anticipated fiscal impact of the rule was overestimated or underestimated;
- Whether subsequent changes in the law required that the rule be repealed or amended; and
- Whether there is a continued need for the rule.

OAR 259-009-0015 was considered by the FPC on August 27, 2014; and approved by the Board on Public Safety Standards and Training on October 23, 2014.

OAR 259-009-0015 was adopted effective December 29, 2014. This rule was adopted to first establish a requirement that any person being considered for employment as a fire service professional undergo a background investigation by the fire service agency; and second to establish the standard information to be reviewed through the background investigation. The goal of the rule was to establish consistency between employing agencies.

The original intent of the adopted rule was to capture all fire service professionals. OAR 259-009-0015 was amended by a temporary rule effective January 15, 2015 and by a permanent rule change effective June 23, 2015 to ensure that the rule included language that applied to volunteer fire service professionals utilized by a fire service agency in addition to career fire service professionals who are employed by a fire service agency.

The rule is still needed. It continues to outline the minimum standards for conducting background investigations for individuals considered for employment or utilization as fire service professionals.

6. *Proposed Rule Changes for OAR 259-009-0005 and 2259-009-0062 – Maritime Fire Service Operator

Presented by Julie Olsen

On July 10, 2018, the Maritime Fire Service Operator Task Force convened at DPSST at the direction of the FPC to discuss the Maritime Fire Service Operator levels of certification and review their relevance to the fire service as an Oregon specific level of certification.

The Maritime Fire Service Operator levels of certification were established in Oregon in 1999 and have been scarcely reviewed since that time. The long gap in Maritime standard review is due to DPSST staff’s unsuccessful attempts to convene a Maritime Fire Service Operator Task Force to evaluate and improve the standard. The current Task Force saw the importance of this review and after careful discussion during their meeting, the Maritime Task Force determined that all Maritime levels of certification hold value to the Oregon fire service but are in desperate need of review and revision. The Maritime levels of certification had not been reviewed in several years and the Task force was careful to review the standard line-by-line and provide updates when needed. They did not conclude their work and had a second meeting located at DPSST on December 12, 2018. After the two meetings, the Task Force successfully completed their desired outcomes with several relevant and important updates to the standard.

The Maritime Fire Service Operator Task Force recommends retaining the current levels of certification with adjustments to the Maritime Fire Service Operator Task Force Professional Qualifications, Task Books as well as certification prerequisites included on the application for certification.

- *Jim Walker recommended that the Board adopt the recommendations provided by the Maritime Fire Service Operator Task Force. Richard Cearns seconded the motion.*
- *Jim Walker recommended that the Board approve filing the proposed rule changes to OAR 259-009-0005 and OAR 259-009-0062 with the Secretary of State as a permanent rule if no comments are received. Richard Cearns seconded the motion. The motion passes unanimously.*
- *By consensus the FPC approved the fiscal impact statements prepared by staff.*

7. Administrative Actions – INFORMATION ONLY

Presented by Linsay Hale

Staff reported the following administrative actions.

Fire Fighter	Certifications	Action
Larry W. Merrill #14317 Lane Fire Authority	NFPA Driver, NFPA Pumper Operator, NFPA Aerial Operator, NFPA Mobile Water Supply Operator, NFPA Operations Level Responder, NFPA Hazardous Materials Incident Commander, Wildland Interface Fire Fighter, Wildland Interface Engine Boss, Strike Team	Discharge for Cause – Certifications Revoked

	Leader Engine (STEN), Task Force Leader (TFLD), NFPA Fire Fighter I, NFPA Fire Fighter II, NFPA Fire Instructor I, NFPA Fire Officer I and Basic Fire Fighter	
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Fire Fighter	Certifications	Action
Jess J. Lee #36212 Coburg RFPD	Firefighter Type 2 (FFT2) And NFPA Operations Level Responder	Discharge for Cause – Certifications Revoked

Fire Fighter	Certifications	Action
Jonathan R. Saxton #04694 Sumner RFPD	NFPA Driver, NFPA Pumper Operator, NFPA Aerial Operator, First Responder Operations, Wildland Interface Fire Fighter, Wildland Interface Engine Boss, Wildland Interface Strike Team Leader, NFPA Fire Fighter I, NFPA Fire Fighter II, NFPA Fire Instructor I, NFPA Airport Fire Fighter, Maritime Fire Service Basic Awareness, Maritime Fire Service Deck Hand, Maritime Fire Service Boat Operator, Basic Fire Fighter, Fire Fighter I, Apparatus Operator I, Instructor and Aircraft Fire Fighter I	Discharge for Cause – Certifications Revoked

8. * McCarty, Joshua S. DPSST #36638 – Siuslaw Valley Fire & Rescue; NFPA Fire Apparatus Driver/Operator

Presented by Linsay Hale

Issue: Whether Joshua McCarty’s conduct surrounding his arrests and convictions of Burglary – Building, Tennessee Code Annotated (TCA) 39-14-402, and Hindering Secured Creditors, TCA 39-14-116, should result in the denial of his NFPA Fire Apparatus Driver/Operator application for certification for failure to meet the minimum standards for a Fire Service Professional. Both convictions occurred in Tennessee and are classified as felonies.

Vote/Consensus	Second	Vote	Outcome
Jim Walker moved that the FPC adopts the staff report as the record upon which its recommendations are based.	Paula Simone	9 ayes, 0 nays	Motion passes

<p>Consensus reached that McCarty's conduct violates the core value of Integrity based on his arrests and convictions from his acts of stealing and theft, demonstrating dishonesty and untrustworthiness.</p> <p>Jim Walker moved that this misconduct, when considered alone, does rise to the level to warrant the denial of McCarty's application for certification.</p>	Kevin Larsen	9 ayes, 0 nays	Motion passes
<p>Consensus reached that McCarty's conduct violates the core value of Professionalism it was unbecoming and did not exercise judgement or behavior expected of a fire service professional.</p> <p>Jim Walker moved that this misconduct, when considered alone, does rise to the level to warrant the denial of McCarty's application for certification.</p>	Kevin Larsen	9 ayes, 0 nays	Motion passes
<p>The FPC found as aggravating circumstances that these were felony convictions in the State of Tennessee, trust was violated as a former employee, and there was a probation violation.</p>		9 ayes, 0 nays	Motion passes
<p>The FPC found no mitigating circumstances.</p>		9 ayes, 0 nays	Motion passes
<p>After considering the totality of the case, Paula Simone moved to recommend to the Board that McCarty's application be denied.</p>	Rev. Dr. Brown	9 ayes, 0 nays	Motion passes
<p>Mark Kreutzer moved to recommend to the Board a minimum period of ineligibility to reapply for certifications of 7 years.</p>	Jim Walker	9 ayes, 0 nays	Motion passes

9. Oregon Fallen Fire Fighter Memorial Criteria for Inclusion

Presented by Julie Olsen

The criteria for names to be honored on the Oregon Fallen Fire Fighters Memorial were adopted by the Oregon Fallen Fire Fighters Memorial Committee on November 7, 2005. The Oregon criteria are identical to those which are used for the National Fallen Fire Fighter's Memorial in Emmitsburg, Maryland. By doing this the criteria is the same and a fallen firefighter is honored on both the state and national memorials.

There have been active discussions around the nation regarding the honoring of career and volunteer fire fighters whose deaths tragically occur from cancer and other occupational illnesses. On September 19, 2018, the National Fallen Firefighters Foundation added cancer and other occupational diseases to the national criteria for deaths that occur after January 1, 2018.

10. Department Update

Linsay Hale Presented:

- Professional Standards update: We have noticed thru the exercising of our current rule there are a few things that need to be addressed. There will be some proposed Administrative Rule changes coming your way at the next FPC meeting in May 2019. This is not uncommon due to case law or the outcome of hearings. The discussion and rule change that was approved at the last FPC meeting regarding the new E-1 Form which is the ability for fire service agencies to essentially require certification, and therefore need fingerprints at the onset of affiliation has been well received.

Julie Olsen Presented:

- Fire Certification has two scheduled Task Forces upcoming on March 19, 2019. In the morning the task force will be for NFPA Fire Fighter and in the afternoon the task force will be for NFPA Fire Instructor which NFPA has come up with a new name for it: NFPA Fire Service and Emergency Fire Instructor.
- We are wrapping up the Maintenance Re-certification process. Most of the fire service did not submit their documentation to DPSST until the latter part of December. Staff has been working very diligently to get it done and hope to have it completed by the end of April.
- Fire Training: DPSST has received their new fleet of vehicles for the fire trainers.
- We are in possession of two brush rigs. This is the first time DPSST has had two brush rigs. We won't have to borrow from other agencies when training the National Guard.
- The fire training unit is almost done being built in Canada. It should be at DPSST by the end of March. DPSST will rotate with the skid truck in different parts of the state.
- Specs have been put in for the new tinder.
- Still running short for staff on Trainers and Coordinators. Two Assessment Centers are coming up in March. The Trainer job, duty stationed here in Salem, will be opening up and we will also be opening up a full-time Coordinator job in Hermiston. David Jensen who was formerly in that position took an Ops-Chief promotion in The Dalles.
- We thank the State of Oregon for your patience with the fire service. We're doing the best we can while running short.
- Winter Fire School came and went as a smashing success with well over 200 individuals who attended. Excellent training was provided with a wonderful outcome.
- The month of May we have two conferences coming: Surviving the Fire Service – May 13 & 14 and East Meets West Leadership – a combination of instructors from the East Coast and the West Coast. It will be a Friday, Saturday and Sunday and will be set up very similar to Winter Fire School where everyone will have an opportunity to go thru each of the classes because they will only be four hour segment classes.

The meeting adjourned at 10:20 a.m.

11. Next Scheduled FPC meeting – May 22, 2019 at 9:00 a.m.

* All documents reviewed and discussed in this meeting are subject to Oregon Public Records Law (ORS 192.410 to ORS 192.505). These documents can be requested by contacting DPSST at dpsst.records@state.or.us.