

Fire Policy Committee Minutes

August 26th, 2020

The Fire Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on, August 26th 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 9:10 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
Ron Graham, Oregon Department of Forestry (Webex)
Kevin Larson, Oregon State Fire Fighters Council (Webex)
Mark Kreutzer, Oregon Fire Dist. Directors Association (Webex)
Richard Cearns, Oregon Fire Instructors Association (Webex)
Paula Simone, Community College Fire Programs (Webex)
Gert Zoutendijk, Oregon Fire Marshals Association
Bruce Riley, Public Member

Absent Members:

Greg Espinosa, Portland Fire & Rescue (Designee for Chief Sara Boone)

DPSST Staff:

Eriks Gabliks, Director
Linsay Hale, Professional Standards Division Director
Julie Olsen, Fire Program Manager
Jennifer Howald, Rules Coordinator
Kayla Ballrot, Fire Certification Supervisor
Brooke Bell-Urbe, Fire Certification Specialist



1. Introductions

Introductions of members and staff were presented.

2. *Minutes

Approve June 9th, 2020 meeting minutes.

- *Jim Walker moved that the committee approve the minutes of the June 9th, 2020 Fire Policy Committee (FPC) meeting. Bruce Riley seconded the motion. The motion passes unanimously.*

3. *Travis Ballard DPSST No. F28961: NFPA Fire Apparatus Driver/Operator and NFPA Fire Fighter I

Presented by Kayla Ballrot

Issue: At issue in this case is whether Travis Ballard’s conduct surrounding his arrest and conviction of Attempt to Commit a Class A Misdemeanor, Oregon Revised Statute (ORS) 161.405, should result in the revocation of his NFPA Fire Apparatus Driver/Operator and NFPA Fire Fighter I certifications for failure to meet the minimum standards for a Fire Service Professional.

After reviewing all the information related to Ballard’s convictions of the identified crimes, staff has identified by a preponderance of evidence that Ballard’s misconduct violates the core values of **Integrity** and **Professionalism**.

Vote/Consensus	Second	Vote	Outcome
Bruce Riley moved that the FPC adopt the staff report as the record upon which its recommendations are based.	Darren Bucich	9 ayes (Oeder-Abstained)	Motion passes
The FPC found as aggravating circumstances Ballard’s representation of himself as a fire fighter during this incident, his dishonesty and that he was uncooperative with the arresting officer. After stating that he had not been drinking he then stated he was on his way to “drill” at his fire department, an activity that should never be attended while intoxicated. The FPC also found that he is still on court ordered supervision as an aggravating circumstance.			
The FPC found as mitigating circumstances Ballard’s letter written on his own behalf.			
After considering the totality of the case Bruce Riley moved to recommend Ballard’s certifications be revoked.	Darren Bucich	9 ayes, 1 abstain (Oeder-Abstained)	Motion passes
Consensus reached by the FPC who determined this specific behavior precludes this Fire Service Professional from being certified in Oregon because responding to an emergency situation when you have been consuming alcohol is a violation of public trust and displays poor judgement. Additionally trying to leave the scene, and lying to the arresting officer demonstrates a lack of integrity and honesty.			
Bruce Riley moved to recommend to the Board a minimum period of ineligibility of 5 years.	Paula Simone	4 ayes, 5 nays, 1 abstain (Walker, Graham, Larson, Simone, Zoutendijk - nay) (Oeder-Abstained)	Motion fails
Jim Walker moved to recommend to the Board a minimum period of ineligibility of 3 years.	Darren Bucich	6 ayes, 3nays, 1 abstain (Larson, Kreutzer, Riley - nay) (Oeder-Abstained)	Motion passes

4. Kyle Bryant DPSST No. F12984; First Responder Operations, Wildland Interface Fire Fighter, and NFPA Fire Fighter I

Presented by Kayla Ballrot

Issue: Whether Kyle Bryant’s conduct surrounding his arrest and conviction of Attempt to Commit a Class C/Unclassified Felony, Oregon Revised Statute (ORS) 161.405, should result in the revocation of his First Responder Operations, Wildland Interface Fire Fighter, and NFPA Fire Fighter I certifications for failure to meet the minimum standards for a Fire Service Professional.

After reviewing all the information related to Bryant’s convictions of the identified crimes, staff has identified by a preponderance of evidence that Bryant’s misconduct violates the core values of **Integrity** and **Professionalism**.

Vote/Consensus	Second	Vote	Outcome
Kevin Larson moved that the FPC adopt the staff report as the record upon which its recommendations are based.	Paula Simone	9 ayes, 1 abstain (Cearns – abstained)	Motion passes
The FPC found as aggravating circumstances his conviction of a felony, his failure to appear warrant, that he was an active fire fighter at the time, and the sexual nature of the crime involving a minor. Additionally, that the court mandated apology letter was initially rejected due to a lack of remorse was found to be an aggravating circumstance.			
The FPC found as mitigating circumstances his admission of guilt to the investigating officers.			
After considering the totality of the case Kevin Larson moved to recommend Bryant’s certifications be revoked.	Paula Simone	9 ayes- 1 abstain (Cearns-abstained)	Motion passes
Consensus reached by the FPC who determined this specific behavior precludes this Fire Service Professional from being certified in Oregon because of his extremely poor judgement and behavior that would make the general public not trust him in their homes.			
Bruce Kevin Larson moved to recommend to the Board a minimum period of ineligibility of 7 years.	Paula Simone	9 ayes- 1 abstain (Cearns-abstained)	Motion passes

5. *Stephen Patoine DPSST No. F39669; NFPA Fire Apparatus Driver/Operator and NFPA Fire Fighter I

Presented by Kayla Ballrot

Issue: Whether Stephen Patoine’s conduct surrounding his arrest and conviction of Telephonic Harassment, Oregon Revised Statute (ORS) 166.090, should result in the denial of his NFPA Fire Apparatus Driver/Operator and NFPA Fire Fighter I applications for certification for failure to meet the minimum standards for a Fire Service Professional.

After reviewing all the information related to Patione’s convictions of the identified crimes, staff has identified by a preponderance of evidence that his misconduct violates the core values of **Integrity** and **Professionalism**.

Vote/Consensus	Second	Vote	Outcome
Paula Simone moved that the FPC adopt the staff report as the record upon which its recommendations are based.	Bruce Riley	10 ayes	Motion passes unanimously
The FPC found as aggravating circumstances that Patione was uncooperative with the arresting officers and he did not return phone calls with the investigating officers.			
The FPC found as mitigating circumstances the letter written by himself on his own behalf, the letter submitted on his behalf from his Fire Department. Additionally that he was not active in the Fire Service at the time and that he has not been in trouble since this incident.			
After considering the totality of the case Paula Simone moved to recommend Patione’s certifications be denied.	No Second		Motion dies
After considering the totality of the case Kevin Larson moved to recommend Patione’s certifications not be denied.	Jim Walker	10 ayes	Motion passes unanimously

6. *Proposed Rule Changes for OAR 259-009-0065 – Time Extension for Maintenance Recertification

During the onset of COVID-19 it was clear that there would be a significant disruption to the ability to complete the maintenance requirements this year. This resulted in a temporary rule change that would grant time extensions for individuals who were not able to complete their maintenance requirements. This temporary rule, set to expire in September 2020, was adopted with the recognition that additional rule changes would be needed in order to comply with the intent of the rule and to clarify some steps of the recertification process that follows that extension.

Changes to language made so that DPSST staff has the ability to exercise discretion on a case by case basis. The changes also include explanation of the extension request process, and the process for certification maintenance after certifications lapse. Included is also the staff report finding no fiscal impact due to these language changes.

- *Consensus reached to approve the fiscal impact statement.*

- *Darren Bucich moved the Board approve proposed rule changes for OAR 259-009-0065 as a permanent rule. Richard Cearns seconded the motion. The motion passes unanimously.*

7. *Proposed Rule Changes for OAR 259-009-0087 – Review of Accreditation Agreements

In current rule Fire Service agencies are required to participate in an Accreditation Review every three years to maintain their accreditation with DPSST. Due to the onset of COVID-19 it became clear that this would not be possible for all agencies to complete on time. This rule change allowed for the granting of extensions to these agreements.

The proposed changes were brought about because of COVID-19 but the language allows for extensions to be granted for reasons other than COVID-19. With the temporary rule set to expire in September 2020 this option would be unavailable. If approved as a permanent rule DPSST staff will be able to grant extensions based on their discretion. DPSST Staff found that there would be no fiscal impact from the proposed changes.

- *Consensus reached that the requirements for review of accreditation agreements need to be amended to continue to allow for extensions of the agreement.*
- *Consensus reached to approve the fiscal impact statement.*
- *Darren Bucich moved the Board approve proposed rule changes for OAR 259-009-0087 as a permanent rule. Jim Walker seconded the motion. The motion passes unanimously.*

8. *Proposed Rule Changes for OAR 259-009-0059, 259-009-0115, 259-009-0120, 259-009-0125, and 259-009-0130 – Fire Service Professional Certification Denial and Revocation Standards and Process

In February the FPC approved the formation of a workgroup to complete a review of the current denial and revocation standards and processes. After meeting on June 9th, 2020 the workgroup considered department recommendations addressing regulatory changes that have occurred as a result of administrative rulings and changes implemented in other disciplines. The following changes were recommended:

- Adding registration as a sex offender to the mandatory grounds for denial or revocation.
- Review employment separations where the fire service professional resigned under allegations of misconduct that would otherwise have been a discharge for cause.
- Limit discretionary review of felony convictions to ten years prior to application for certification.
- Limit discretionary review of misdemeanor convictions to five years prior to application for certification.
- Amend how misdemeanor convictions are defined as discretionary grounds for denial/revocation.
- Defer review of discretionary convictions when all of a fire service professional's certifications are lapsed.

- Include an opportunity for the fire service professional to provide mitigation to the FPC through in-person, verbal statements.
- Integrate core values of professionalism and integrity as a nexus for denial or revocation.
- Remove the list of predetermined circumstances that can be considered as aggravation or mitigation.
- Eliminate the 30-day to seven-year ineligibility period.
- Adopt guidelines for surrendering certifications.
- Amend requirements for reporting convictions to have the fire service professional contact DPSST directly when they are convicted of a crime.
- Remove references to instructor certification from the denial/revocation standards.

DPSST staff found no fiscal impacts to these rule amendments.

- *Consensus reached to approve the fiscal impact statement prepared by staff.*
- *Jim Walker moved the Board approve proposed rule changes for 259-009-0059, 259-009-0115, 259-009-0120, 259-009-0125, and 259-009-0130 as a permanent rule. Bruce Riley seconded the motion. The motion passes unanimously.*

9. **Department Update**

Linsay Hale Presented:

- Welcome Gert Zoutendijk to the FPC.
- Expressing appreciation for the work group that reviewed the Revocation and Denial process and made updates to help make the process more relevant.
- 2021 full legislative is coming up and there will probably be some discussion about public safety, with this the program will be watching to make sure that any changes to the Law Enforcement program do not inadvertently make changes to the Fire Program.

Kayla Ballrot Presented:

- The 2020 updates to NFPA Fire Officer standard have gone into effect, the task force has been rescheduled several times due to COVID-19, but we are planning to get the task force together at the end of September.
- Wallet cards are set to be phased out December 2020 because all the information is available on the Information Resource Inquiry System (IRIS).
- Maintenance Recertification packets are due 12/31/2020 unless an extension is requested.

Julie Olsen Presented:

- The Fallen Fire Fighter's Memorial is scheduled September 17th, 2020 with COVID-19 this will be a virtual and condensed memorial and there will be a name added to the wall.
- DPSST and its partners trained over 400 Oregon National Guard on campus in July to help better prepare the Oregon Fire Service for wildfire season.
- The Fire Program still has positions open we are having interviews tomorrow August 27th to fill Barbara Slinger's position as an Office Specialist 2 and we are responding to regional training needs as they come up.
- There are still training associations grant opportunities available, the deadline for the applications is October 1st, 2020.
- The 2019 AFG grant has been approved which will help provide more props which will relieve drive time and allow more regional training across the state.
- On campus training has been very limited and some in person training has been postponed due to COVID-19. We are assessing each region's training needs on a case by case basis.

Eriks Gabliks Presented:

- We are managing the on campus "bubble" to the greatest extent that we can, the custodial staff and the food service staff are working extremely hard to make sure that things are sanitized as much as possible.
- Training Coordinators are helping manage the regional "bubbles" by trying to make sure that we are keeping training and people within their own regions.
- The DPSST budget has been reduced with the special session, this does not currently affect the Fire Program Budget but the agency budget has been reduced by over 2 million dollars which will limit any carry over into the next biennium.
- The exterior only firefighting proposal is ready to be presented which will alleviate some of the OSHA rules applied to some small rural agencies that don't have the means and equipment to meet interior structural firefighting standards.
- DPSST has been in the public eye now more than ever because of our involvement with police training and accountability. The Governor has created a task force that will evaluate the way our training is done and the makeup of the Board, it may result in more citizen members which will result in more transparency.
- In order to create help internal communications and create bandwidth we are working to change the current organizational structure. The plan would be to have the Fire Program and Private would report directly to the Deputy Director and have Law Enforcement report to Linsay Hale, continuing as the Training Director. The recruitment for this Deputy Director position has been paused as Eriks has been offered the position as the Superintendent of the National Fire Academy in Maryland and will be leaving at the end of October.

James Oeder and the FPC thanked Eriks for his work at DPSST.

James Oeder and the FPC thanked Ron Graham for his work on the Board and with the FPC.

Meeting Adjourned at 11:31 am.

10. Next Scheduled FPC meeting –November 25th, 2020

* 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.