

Telecommunications Policy Committee Minutes

November 6, 2019

The Telecommunications Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on November 6, 2019, at the Oregon Public Safety Academy in Salem, Oregon. Chair, Kelly Dutra called the meeting to order at 9:00 am.

Committee Members:

Kelly Dutra, Chair, Oregon APCO-NENA
Rebecca Interiano, Oregon State Police (Phone)
Bob Horton, Oregon Fire Chiefs Association
Brandon Klocko, Emergency Medical Services & Trauma Rep.
Andre Lindauer, Public Member
Chelsea LaBar, APCO
Lindy Cox Line-Level Communicator (Joined via phone during agenda item 4.)
Candace Pozdolski, Line-Level Telecommunicator (Phone)
Robin Sells, Oregon Association of Chiefs of Police
Erica Stolhand, APCO
Tim Svenson, Oregon State Sheriff's Association

Committee Members Absent:

Matt Dale, OFCA EMS Section

Guests:

Mike Fletcher

DPSST Staff:

Eriks Gabliks, Director
Lindsay Hale, Professional Standards /Interim Training Division Director
Wendy Nunez, Criminal Justice Office Specialist
Jennifer Howald, Administrative Rules Coordinator
Tami Atkinson, Telecommunications Training Coordinator

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1. Introductions

Introductions of members, guest and staff were presented.

2. Approve May 1, 2019 Meeting Minutes

Robin Sells moved to approve the minutes from the 5/1/2019, Telecommunications Policy Committee meeting with one minor correction. Andre Lindauer seconded the motion. The motion passes. (Bob Horton, Chelsea LaBar, Tim Svenson abstained.)

3. *Proposed Rule Changes for OAR 259-008-0010, 259-008-0010, 259-008-0011 and 259-008-0067: Establishing the Expiration of DPSST Public Safety Professional Certifications

Presented by Jennifer Howald

Under the current application of the statutes relating to lapse of public safety professional certifications, a lapsed certification is treated like an inactive certification that remains subject to revocation for violations of the moral fitness standards no matter how long the certifications have been lapsed.

The Workgroup recommended that public safety certifications should expire after five years of separation from a DPSST certifiable position. The Workgroup recognized that any person returning to the public safety profession, would be subject to a background investigation by a hiring agency, as well as a DPSST criminal history check conducted for certification purposes.

The Workgroup reaffirmed moving forward with the recommendation that all public safety certifications expire after five years of separation. The reapplication for certification will continue to be handled under the current rules and processes with the understanding that current and future workgroups tasked with assessing minimum training standards will be asked to review the requirements for reapplying for certifications after they have lapsed or expired.

Consensus reached approving the fiscal impact statements provided by staff.

Brandon Klocko moved to recommend the Board adopt the proposed rule changes for OAR 259-008-0010, 259-008-10, 259-008-0011 and 259-008-0067 and to file as a permanent rule if no comments are received. Erica Stolhand seconded the motion. The motion passes unanimously.

4. *Proposed Rule Changes for OAR 259-008-0015: Background Investigations

Presented by Jennifer Howald

In May, the Telecommunications (TPC), Corrections (CPC) and Police (PPC) Policy Committees reviewed the Criminal Justice Moral Fitness Workgroup recommendation that conducting a search of DPSST records should be a mandatory element of all pre-employment background investigations to ensure that hiring agencies are aware of any past or pending DPSST professional standards reviews or if the individual was the subject of any complaint filed with DPSST. The Moral Fitness Workgroup also recommended removing the requirement that the applicant's personal history statement be notarized, instead requiring an acknowledgment of "declaration under penalty of perjury."

All three Policy Committees unanimously approved the Moral Fitness Workgroup recommendation and DPSST filed the proposed rule changes for public comment opportunity. During the proposed rule public comment period, staff received comment regarding the deletion of the notary requirement.

Staff presented the comment to the Background Investigation Workgroup and The Criminal Justice Moral Fitness Workgroup, both ultimately recommended the proposed rule changes, including removing the notarization requirement, move forward as proposed.

Bob Horton moved to recommend that the Board adopt the background investigation process changes recommended by the Moral Fitness Workgroup and approve filing the amended proposed rule changes for OAR-259-008-0015 as a permanent rule if no comments are received. Tim Svenson seconded the motion. The motion passes unanimously.

5. *Proposed Rule Changes for OAR 259-008-0060 and 259-008-0064: First Aid & CPR Requirements for DPSST Telecommunicator and EMD Certifications

Presented by Jennifer Howald

On May 1, 2019, the Telecommunications Policy Committee (TPC) reviewed public comment in opposition to a proposed rule change to remove the first aid and CPR certification requirements from the minimum standards for DPSST telecommunicator and emergency medical dispatcher (EMD) certification. After considering the public comment, the TPC asked staff to research options relating to establishing an ongoing maintenance standard for first aid and CPR certifications.

Staff presented six options to the committee.

1. Add both first aid and CPR to the maintenance standard for both telecommunicators and EMD.
2. Add CPR to the maintenance standard for both telecommunicators and EMD.
3. Add CPR to the maintenance standard for EMD.
4. Keep the first aid/CPR certification requirement for DPSST basic certification for telecommunicators and EMD and delete the first aid/CPR certification requirement for upper levels of DPSST certification.
5. Maintain the current first aid/CPR certification requirements.
6. Delete all first aid/CPR certification requirements for DPSST telecommunicator and EMD certifications.

Brandon Klocko moved to develop a recommendation adding both first aid and CPR to the maintenance standard for telecommunicators and emergency medical dispatchers for public comment. Rebecca Interiano seconded the motion. The motion passes with one Nay (Chelsea LaBar).

6. *Proposed Rule Changes for OAR 259-0070: Criminal Justice Moral Fitness Workgroup Recommendations and Review of Comments

Presented by Jennifer Howald

When staff presented the Workgroup recommendations and proposed rule changes to the May Policy Committees, the PPC expressed concerns about the impacts of the mandatory minimum three year ineligibility period and the Board approval as the effective date of any ineligibility period. The PPC concerns identified potential outcomes that were more punitive than necessary in some cases and the inability to apply discretion to adjust for a lesser penalty. Staff acknowledged the PPC concerns and assured the PPC that the comments would be considered along with the comments received during public comment.

All three Policy Committees approved staff's recommendation to file the proposed rules for public comment. As a part of the outreach and opportunity for comment, the public comment period extended from May 29, 2019 through August 30, 2019 and included four administrative rule hearings.

Staff received one additional submission of public comment from the Oregon Coalition of Police and Sheriffs (ORCOPS). The concerns submitted by ORCOPS addressed the changes to the title and definition of Misconduct, the effective date of the ineligibility period, and how the mandatory disqualifier drug language may impact review of marijuana offenses.

The Criminal Justice Moral Fitness Workgroup met on September 5, 2019, to review the comments and the original recommendations. The resulting recommendations are outlined below.

1. Mandatory Denial or Revocation for Drug Related Convictions

OAR 259-008-0070 (1) defines the grounds for mandatory denial or revocation of public safety professional certifications and includes mandatory denial or revocation for "a conviction in any jurisdiction for any offense involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic or dangerous drug." The concerns submitted by ORCOPS identified that the proposed rule language does not include the current rule language that provides exception for discretionary review of marijuana offenses.

The workgroup approved staff's recommendation to re-insert language that would maintain an exception to the mandatory denial/revocation for unlawful use/possession of controlled substances, directing marijuana offenses to the discretionary review process. While marijuana has been legalized in Oregon, the majority of other jurisdictions still consider use/possession to be unlawful. The Workgroup reaffirmed that it is important to recognize that an individual is expected to follow the laws that apply to their jurisdiction and recommended these cases remain discretionary.

2. The Definition and Application of the Discretionary Moral Fitness Disqualifier - Misconduct

OAR 259-008-0070 (2) defines the grounds for discretionary denial or revocation of public safety professional certifications. When a public safety professional engages in conduct that requires a review for a moral fitness violation, DPSST staff and the Policy Committee are tasked with the review of the conduct to determine whether or not the conduct includes elements of Dishonesty, Misuse of Authority or Misconduct. Each of these moral fitness categories are defined within the rule. The Workgroup's initial recommendations included clarifying amendments to these three categories and elimination of the category Disregard for the Rights of Others.

Current Definition:

Gross Misconduct: Includes behavior that deliberately or recklessly disregards the law, threatens persons or property or the efficient operations of any agency.

Proposed Definition:

Misconduct. Misconduct includes conduct that violates criminal laws or conduct that threatens or harms persons, property or the efficient operations of any agency.

After considering the public comment, the current definition and the proposed definition, the Workgroup agreed to recommend that the Policy Committees and the Board approve the proposed definition for Misconduct as initially proposed. The reasons supporting this recommendation include the following:

3. The Effective Date of an Ineligibility Period

As proposed, OAR 259-008-0310 (11) (d) identifies an ineligibility period as “the timeframe that the public safety professional or applicant is ineligible for public safety certifications and employment as a certifiable public safety professional as the result of the total impact of the moral fitness violations and the aggravating and mitigating circumstances on the public safety professional’s moral fitness for certification.”

The current rule prescribes the first day of the ineligibility period as either the date of the criminal disposition or the date of separation from employment depending on the trigger for the discretionary review. The Workgroup's recommendation to change the effective date for all ineligibility periods to the date the action as approved by the Board resulted from discussions about the scenarios where public safety professionals are never actually penalized by the revocation process, remaining in the profession and continuing to serve the public. While the certification may be revoked, the person remained employed and serving the public in a certified capacity.

Both the PPC and the ORCOPS identified potential adverse impacts for implementing the effective date as the Board approved date in all cases. Both groups expressed concern for excessive penalty for conduct that happened prior to employment as a

public safety professional and conduct that is delayed for review due to employer or DPSSST processes. In review of the identified concerns, the Workgroup agreed that ineligibility periods for criminal dispositions that occurred prior to employment should continue to be administered with the date of the criminal disposition as the first date of the ineligibility period. In these cases, it is appropriate that the passage of time may result in no further delay in employment or certification.

When considering how to apply an ineligibility period to conduct that occurs while employed as a public safety professional, the Workgroup maintained that there is a distinction between a public safety professional who continues to be employed and in the service of the public and a public safety professional who has remained separated from acting in a certifiable capacity. To resolve the disparity between the two scenarios, the Workgroup recommended administering the ineligibility period according to the circumstance that applies to the case. Examples:

- When the conduct is a criminal disposition that occurred before the person was employed as a public safety professional or after a separation from employment (retirement) - apply the effective date of the ineligibility period as the date of the criminal disposition.
- When the conduct occurred while the person was a public safety professional, the conduct results in separation from a certifiable position, and the person remains separated from serving the public in a certifiable capacity - apply the effective date of the ineligibility period as the date of the separation.
- When the conduct occurred while the person was a public safety professional but the conduct does not result in separation from a certifiable position or the person gains certifiable employment with another agency after a separation - apply the effective date of the ineligibility period as the date the Board approved the action. In this scenario, the Workgroup recommends that any period of time where there was a gap in employment is accounted for as “time served” when calculating the dates for the final order.

ADDITIONAL DEPARTMENT RECOMMENDATIONS:

The Department recommends including the following amendments to OAR 259-008-0005, 259-008-0010 and 259-008-0011.

- Relocating the definition of criminal disposition from the denial/revocation rules (259-008-0070, et al) to the definition rule (259-008-0005).
- Adding a definition for the term jurisdiction to the definition rule.
- Deleting outdated employment requirement language tied to the denial/revocation crimes lists that were deleted from the denial/revocation rule in 2017.

Consensus reached approving the fiscal impact statements provided by staff.

Bob Horton moved to recommend that the Board approve filing the proposed rule changes for OAR 259-008-0005, 259-008-0010, 259-008-0011 and 259-008-0070, including the adoption of new rule numbers, as permanent rules. Robin Sells seconded the motion. The motion passes unanimously.

7. Administrative Closures – Emergency Medical Dispatcher

Presented by Lindsay Hale

Staff presented the following professional standards cases to the Telecommunications Policy Committee for administrative closure.

Officer	Certifications	Summary	Flagged for Review (if hired in future)
Ewing, Jacob DPSST #55231 American Medical Response Northwest	None	Arrest – A Possible Conviction was found and after further review the conviction did not belong to the applicant.	No
Burrow Kayla DPSST #58525 Metro West Ambulance	Basic	Separation – After an investigation into an allegation that she lied to a supervisor. Insufficient evidence to prove dishonesty.	No

Brandon Klocko moved to approve the recommendations made by staff to administratively close the above listed cases. Andre Lindauer seconded the motion. The motion passed unanimously.

8. Department Update

Tami reported:

- An update was provided to the TPC regarding the implementation of the new Basic Telecommunications Course, which includes the addition of a third week of instruction.

Lindsay reported:

- Thank you to everyone who served on the Criminal Justice Moral Fitness Workgroup.
- Staff is attempting to convene a Workgroup to review the Moral Fitness standards and how they apply to emergency medical dispatchers employed by private ambulance companies, but it struggling to find membership. Staff will prepare a recommendation for presentation to the TPC to begin the review process.
- The Criminal Justice Background Investigation Workgroup continues to meet to develop recommendations regarding DPSST's role in background investigations and the possible establishment of a pre-employment standards and process which

applies to applicants for certification who engaged in criminal behavior prior to employment in public safety.

Eriks reported:

- Enrollment at the Oregon Public Safety Academy remains steady for Basic Police and Basic Telecommunications classes. Basic Corrections remains manageable but Basic Parole and Probation has slowed. Feedback indicates the slowdown in Parole and Probation is tied to state funding reductions which will be discussed during the 2020 Oregon legislative session. To see an updated enrollment: <https://www.oregon.gov/dpsst/cj/Documents/AcademyEnrollments.pdf>
- A complete review and update of the two-week Supervision and Middle-Management courses continues with the assistance of a diverse work group that includes police, corrections, 9-1-1, and parole and probation stakeholders. Dr. Steven James from Washington State University is assisting DPSST staff and the work group.
- The recently updated three-week Basic Telecommunications class has been offered twice with very good feedback. The Oregon Chapter of the Association of Public Safety Communications Officers (APCO) and National Emergency Number Association (NENA) recognized the curriculum work group with an award at its recent conference.
- DPSST's 9-1-1 Training Coordinator Tami Atkinson will be working with staff and stakeholders to review the current Telecommunications and EMD Field Training Manuals to see what changes and updates may be needed. This work would be completed by the summer of 2020.
- On the legislative front, DPSST is working on a number of projects for both the 2020 and 2021 sessions. BPSST's Private Security Committee unanimously supported the introduction of legislation during the 2021 session that will address how private security company officer look and how their vehicles are marked. An additional legislative concept will require private security companies to have written use of force policies and other management tools for day to day operations. The Board unanimously approved these proposed legislative concepts at its October meeting.
- During the 2020 session, the Board on Public Safety Standards and Training (BPSST) approved at its recent meeting a request from DPSST staff to request four additional 16-week Basic Police classes to address the continued wave of retirements.
- DPSST is working with public safety partners to support the first-ever Public Safety Peer Support conference. This event being held at the Salem Convention Center will be open to all public safety peer support members and clinicians. The pre-conference with various training classes will be on Tuesday, February 4, 2020 and the conference will be held on February 5-7, 2020. For more information please go to <https://responderlife.org/northwest-peer-support-conference/>
- DPSST is offering a new opportunity in 2020 called the Elected Officials and Community Partners Academy. This five-hour session will give attendees insight into the work of the Board, Policy Committees, DPSST, and the responsibilities of employers. A tour of the Academy will also be offered. DPSST has hosted

similar opportunities for the Association of Oregon Counties, Oregon Mayors Association, League of Oregon Cities, and many Citizen Police Academies with much success. This project will be very similar but offered on a quarterly basis for elected officials and community partners from around the state, not a single organization or community. For more information

<https://drive.google.com/file/d/1h4gRtWG9rS0y23lJGmMfgEQUU2TZcab/view>

- Mike Leloff, DPSST's Training Division Director recently resigned. Mike retired from the Portland Police Bureau as Assistant Chief and joined DPSST over two years ago. During a recent performance appraisal session, Lindsay Hale, DPSST's Professional Standards Division Director, asked to oversee the Training Division on an interim basis to learn more about the organization and to broaden her leadership capabilities. Lindsay has been doing a very good job working with the solid management team in the Training Division.

9. Next Telecommunications Policy Committee Meeting: February 5, 2020 at 9:00am

Administrative Note:

These minutes reflect the order of the discussion/voting items as they appear on the official meeting agenda. The actual order in which they were discussed may vary.