

**Board on Public Safety Standards and Training  
Executive Committee Meeting  
Minutes  
June 9, 2011**

The Executive Committee of the Board on Public Safety Standards and Training held a telephonic meeting on June 9, 2011, in Ontario, Oregon. Chair Andrew Bentz called the meeting to order at 1:31 p.m.

**Board Members Present:**

Andrew Bentz, Chair of the Board on Public Safety Standards and Training  
Todd Anderson, Chair of the Corrections Policy Committee  
Rob Poirier, Chair of the Telecommunications Policy Committee  
Jeff Martin, Chair of the Private Security/Investigators Policy Committee

**Board Members Absent:**

Mark Prince, Chair of the Fire Policy Committee

**DPSST Staff:**

Eriks Gabliks, Director of the Department of Public Safety Standards and Training  
Brian Henson, Facilities and Information Technology Director  
Troy Abney, Training Division Director  
Marilyn Lorange, Standards and Certification Program Supervisor  
Linsay Bassler, Compliance Coordinator  
Tammera Hinshaw, Executive Assistant to Director

**Guests**

Brad Williams, Malheur County Sheriff's Office  
Joseph Ward, Treasure Valley Community College Security  
Tyler Recla, Treasure Valley Community College Security  
Anthony Thompson, Treasure Valley Community College Security  
Mark Alexander, Ontario Police Department  
Charles VandePerren, Seabreeze Investigations  
Mitchell DeCory, Treasure Valley Community College Security



**Chair's Administrative Announcement**

"This is a public meeting, subject to the public meeting law and it will be tape recorded."

**1. Minutes of May 3, 2011 meeting**

*To see complete text of the meeting minutes, please go to the Executive meeting minutes of May 3, 2011, which can be found at:*

[http://www.oregon.gov/DPSST/BD/Policy\\_Committee\\_Minutes/EC\\_Minutes/Exec5311.pdf](http://www.oregon.gov/DPSST/BD/Policy_Committee_Minutes/EC_Minutes/Exec5311.pdf)

***Rob Poirier moved to accept the minutes as presented. Todd Anderson seconded the motion. The motion carried with a unanimous vote.***

**2. OAR 259-020-0031 – Proposed Rule (See attachment A)**

*Polygraph – Procedure for Complaints, Denial, Suspension, or Revocation – Request for Temporary Rule*

Linsay Bassler reviewed.

The current rule dealing with complaints, denial, and suspension and revocations of polygraph examiner licensure does not reflect the current Administrative Procedures Act (APA). The Polygraph Licensing Advisory Committee is facing a license revocation. Staff is requesting to file a temporary rule to ensure the rules are accurate. The temporary rule will be in effect until the permanent rule process can be completed.

***Rob Poirier moved that the Executive Committee approved filing the proposed language for OAR 259-020-0031 with the Secretary of State as a temporary rule and as a permanent rule if no comments are received. Jeff Martin seconded the motion. The motion carried with a unanimous vote.***

***The Committee determined there was no significant impact on small business.***

**3. OAR 259-060-0500 – Proposed Rule (See Attachment B)**

*Private Security – License Fees – Request of Temporary Rule*

Linsay Bassler reviewed.

This rule was originally updated to include fee increases in December 2010. Due to Oregon's economic climate, the Legislative Committee approved a smaller increase for the 2011/2013 biennium. Staff is requesting approval to file a temporary rule effective July 1, 2011 which is when the fee increase is to take place. This temporary rule will not be in effect until the permanent rule making process can be completed.

***Jeff Martin moved to approve filing the proposed language of OAR 259-060-0500 with the Secretary of State as a temporary rule, as a proposed rule, and as a permanent rule if no comments are received. Rob Poirier seconded the motion. The motion carried with a unanimous vote.***

***The Committee determined there would be a positive fiscal impact on small business due to the decreased fee.***

**4. 2011-2013 Budget Update – Director Gabliks**

Last week, the Joint Legislative Committee on Ways and Means moved forward the DPSST budget for 2011-2013 (Senate Bill 5541) as proposed by the Public Safety Sub-Committee with a unanimous "Do Pass" vote. Unfortunately, our 2011-2013 budget includes reductions in programs funded by the Criminal Fines and Assessments Account (CFAA) which some in the legislature consider a "different color" of general fund dollars. DPSST programs funded by dedicated taxes or fees (Fire Training, Traffic Safety, 9-1-1 Training, and Private Security) were not significantly

affected by reductions. The full Committee also approved the Private Security Program fee increase (Senate Bill 5555) with two votes against and the majority in favor of the increase.

During the discussion of the agency, our mission, and our budget, a number of committee members put on the record positive comments about the agency as well as a request that funds and positions be restored if budget dollars allow for this in the future. We did receive permission to return and request additional funds if basic police classes need to be added. DPSST and DOJ are the first public safety budgets to move forward. We know that many of our statewide stakeholder associations are continuing efforts to restore positions being lost and this was evident during the budget work session. I'm sure these efforts will continue until the session adjourns. We appreciate the efforts of all of our stakeholders during this legislative session where difficult decisions are being made by the Governor, the House and Senate. The reductions unfortunately reflect the budget challenges the state is facing.

Here is a quick overview of the proposed DPSST budget and the reductions that are moving forward:

2009-11 Legislatively Adopted Budget \$47,789,512  
Less: February 2010 adjustments - 894,000  
2009-11 Legislatively Approved Budget \$46,895,512\*  
\*Includes \$11,360,288 Debt Service

2011-13 Current Service Level Budget \$50,030,076  
Recommended Adjustments:  
Less: Eliminate Inflation -337,365  
5.5% Statewide Personal Services Reduction -1,460,668  
6.5% Statewide CFAA Services & Supplies reduction -546,745  
Analyst Adjustments (abolish positions + some supplies) -2,607,754  
3.5% Statewide General Fund adjustment to Debt Service -397,814  
Add: Custodial Package Approved +222,768

2011-13 Budget (recommend by Legislative Fiscal Office (LFO)) \$44,902,498 \*\*  
\*\*Includes \$10,968,292 Debt Service

Difference between CSL and LFO recommended \$ 5,127,578 (CSL = Current Service Level and LFO=Legislative Fiscal Office)

The DPSST Leadership Team did take proactive steps to mitigate the impact of the economic downturn by holding a number of positions vacant during the budget development process. As a result, the impact is not as bad as it could have been, but unfortunately a number of layoffs will be implemented on June 30, 2011. Here is an overview of the organizational impacts for 2011-2013:

Loss of 13 positions/12.33 FTE (7 Management & Executive Service positions / 6 Represented positions)

Loss of two Basic Police Courses (15 down to 13 with permission to return if additional classes are needed)

Director's Office Impact: Loss of Deputy Director (vacant) & Executive Assistant (vacant)

Human Resources Impact: Loss of HR Analyst 3 (layoff) & Background Investigator 3 (layoff)

Training Division Impact: Loss of Administrative Supervisor (vacant), Student Worker (vacant), 2 PSTS-1 positions (filled with part-time instructors), Range Master/Armorer (layoff), Regional/Adv Supervisor (Layoff), Office Specialist 2 (vacant), Office Specialist 1 (used for custodian), Academy Operations Supervisor (layoff), and two 16-week Basic Police classes.

Note: Four full-time permanent positions are added for custodians. Net loss will be 9 positions/8.33 FTE.

## **5. Legislative Update – Director Gabliks**

The legislative session is showing signs that it is coming to a close within the next few weeks. The bills of most interest to DPSST have cleared both the House and the Senate and are heading to the Governor's Office for signature. DPSST appreciates the assistance of all of the statewide organizations that have offered assistance this legislative session. Here is an overview of the legislation that has passed.

SB 71 - Makes recipients of General Educational Development (GED) certificates eligible for general polygraph examiner licenses.

SB 76A - Expands definition of "corrections officer" to include officers who supervise other corrections officers.

SB 405 - Allows State Board of Higher Education to authorize university under board control to establish police department.

SB 412 - Provides authorized tribal police officers with certain powers and protections provided to Oregon law enforcement officers.

SB 635 - Excepts from private security professional certification requirement person who provides security services as volunteer or for de minimis consideration other than money for event operated for benefit of nonprofit or federally tax exempt corporation and certain student enrolled in community college while engaged in supervised, non-confrontational activities that contribute to campus safety.

SB 878 - Extends exception to private security professional licensing requirement to person employed for purpose of controlling access at entrance of premises by licensee of Oregon Liquor Control Commission. Clarifies exemption as it applies to person who monitors certain alarm systems.

HB 2274 - Permits certified peace officers from states adjoining Oregon to provide or attempt to provide law enforcement services within Oregon under certain conditions. Applies only in absence of mutual aid agreement.

\*Bills of interest that have had a Hearing but are not Moving Forward as of this Date\*

HB 2362 - Requires Department of Corrections to adopt rules establishing minimum requirements for maintenance of certification as corrections officer.

HB 2704 - Authorizes Department of Public Safety Standards and Training to certify inspectors and investigators employed by Oregon Liquor Control Commission.

**6. OAR 259-009-0005 – Proposed Revisions to Technical Rescuer Professional Qualifications (See Attachment C)**

Director Gabliks reviewed.

This is a housekeeping rule change due to an error which was caught while adding the definition of NFPA Dive Rescue and NFPA Surface Rescue to the fire certification standards. This came before the committee at their previous meeting where it was approved and put out for comment. Eriks clarified for the Executive Committee that the standards for Dive and Surface Rescue Training and certification are only applicable to the fire service, not other disciplines under DPSST's oversight.

*Todd Anderson moved to approve the change. Rob Poirier seconded the motion. The motion carried with a unanimous vote.*

*The Committee determined there was no significant fiscal impact on small business.*

With nothing more to be brought before the Committee, Chair Bentz adjourned the meeting at 1:45 p.m.

**7. Next Meeting – August 11 at 1:30 p.m.**

## Attachment A

### Department of Public Safety Standards and Training Memo

Date: June 9, 2011

To: Executive Committee

From: Linsay Bassler  
Rules Coordinator

Subject: OAR 259-020-0031 – Proposed Rule  
Polygraph - Procedure for Complaints, Denial, Suspension or Revocation  
Request for Temporary Rule

Issue: The current rule relating to complaints, denials, suspensions, and revocation of polygraph examiner's and trainee's licensure does not reflect the current contested case procedures as prescribed by the Administrative Procedures Act. This proposed rule change updates the procedure to reflect current laws and practices in regards to due process. Plain language standards are also implemented.

The following revised language for OAR 259-020-0031 contains recommended additions (bold and underlined) and deletions (strikethrough text).

259-020-0031

Procedure for Complaints, Denial, Suspension or Revocation

- (1) The Department may deny, revoke, or suspend any polygraph examiner or trainee license after written notice and a hearing, if requested, based upon a violation of any provision of The Act.
- (12) Citizen request: When a citizen submits a complaint on any polygraph examiner or trainee license to the Department, including the basis for the complaint and all factual information supporting the complaint, it will be the responsibility of the Polygraph Licensing Advisory Committee to review and, investigate all the complaints and then make a recommendation(s) to the Director on all allegations against a the licensed polygraph examiner or trainee.
- (2a) The Director shall will review the recommendation, the request complaint, the Committee recommendation, and the supporting factual information to determine if the recommended action and the issues of the complaint and recommendation meets statutory and administrative rule requirements.
- (b) If the issues of the complaint issues do not meet the statutory and administrative rule requirements, the Department shallwill so notify the citizen.
- (c) If the complaint and the Committee recommendation meets statutory and administrative rule requirements, but are not supported by adequate factual information, the Department shall may request further information from the requesting citizen,or Polygraph Licensing Advisory Committee.
- (d) The Department may choose to conduct its own investigation of the matter separate from, or in conjunction with, that of the Polygraph Licensing Advisory Committee.
- (3) The Department may deny, revoke, or suspend any polygraph examiner or trainee license after written notice and a hearing, if requested, based upon a violation of any provision of this act.

- (4) Pursuant to the provisions of ORS 183.341, the Department adopts the Attorney General's Model Rules of Procedure applicable to contested cases under the Administrative Procedures Act, as amended and in effect on January 1, 2000.
- (3) Initiation of Proceedings: Upon determination that the reason for denial, suspension, or revocation is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared.
- (54) Contested Case Notice: The Department or its designated staff shall cause to be prepared a "Contested Case Notice" will be prepared in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department or its staff shall have a copy of the "Notice" Notice served on the person whose license is being affected.
- (65) Response Time:
  - (a) If the Department is seeking revocation or denial, a party who has been served with the "Contested Case Notice of Intent to Deny Licensure" shall will have 20 60 calendar days from the date of the mailing or personal service of the notice in which to file a written request for a hearing with the Department.
  - (b) If the Department is seeking revocation, a party who has been served with the "Contested Case Notice of Intent to Revoke Licensure" will have 20 days from the date of the mailing or personal service of the notice in which to file a written request for a hearing with the Department.
  - (bc) If the Department is seeking suspension, a party who has been served with the "Contested Case Notice of Intent to Suspend Licensure" shall will have 10 calendar days from the date of the mailing or personal service of the notice in which to file a written request for a hearing with the Department.
- (76) Default Order: In the absence of a If a timely request for a hearing is not received, the Contested Case Notice shall will become a final order denying, revoking, or suspending, or denying licensure pursuant to OAR 137-003-06720075(5).
- (7) Hearing Request: When a request for a hearing is received in a timely manner, the Department shall refer the matter to the Hearings Officer Panel in accordance with OAR 137-003-0075(5).
- (9) Findings of Fact, Conclusions of Law and Proposed Final Order. The presiding officer of the Hearings Officer Panel shall prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.
- (10) Exceptions and Arguments to the Findings of Fact, Conclusions of Law and Proposed Final Order. A party shall have 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order to file specific written exceptions and arguments with the Department.
  - (A) The Department may extend the time within which the exceptions and arguments shall be filed upon a showing of good cause.
  - (B) When the exceptions and arguments are filed, the party making the exceptions and arguments shall serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.
- (7) Stipulated Order Revoking Licensure: The Department may enter a stipulated order revoking the licensure of a polygraph examiner or trainee upon the person's voluntary agreement to terminate an administrative proceeding to revoke licensure, or to relinquish licensure, under the terms and conditions outlined in the stipulated order.

- (11) Subject to the approval of the Attorney General, an officer or employee of this agency is authorized to appear on behalf of the agency in all contested case hearings conducted by this agency.
- (12) The agency representative may not make legal arguments on behalf of the agency.
  - (a) Legal argument includes arguments on:
    - (A) The jurisdiction of the agency to hear the contested case;
    - (B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and
    - (C) The application of court precedent to the facts of the particular contested case hearing;
  - (b) Legal argument does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:
    - (A) The application of the facts to the statutes or rules directly applicable to the issues in the contested case;
    - (B) Comparison of prior actions of the agency in handling similar situations;
    - (C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case; and
    - (D) The admissibility of evidence or the correctness of procedures being followed.
- (13) When an agency officer or employee represents the agency, the presiding officer shall advise each representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection. Where such objections involve legal argument, the presiding officer shall provide reasonable opportunity for the agency officer or employee to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Auth.: ORS 181.640(5) & ORS 703.230(2)

Stats. Implemented: ORS 181.640(5) & ORS 703.230(2)

ACTION ITEM 1: Determine whether to approve filing the proposed language for OAR 259-020-0031 with the Secretary of State as a temporary rule.

ACTION ITEM 2: Determine whether to approve filing the proposed language for OAR 259-020-0031 with the Secretary of State as a proposed rule.

ACTION ITEM 3: Determine whether to approve filing the proposed language for OAR 259-020-0031 with the Secretary of State as a permanent rule if no comments are received.

ACTION ITEM 4: Determine whether there is a significant fiscal impact on small businesses.

## Attachment B

### Department of Public Safety Standards and Training Memo

Date: June 9, 2011

To: Executive Committee

From: Linsay Bassler  
Rules Coordinator

Subject: OAR 259-060-0500 – Proposed Rule  
Private Security – License Fees  
Request for Temporary Rule

Background: The Department of Public Safety Standards and Training administers certification/licensure of private security constituents in accordance with ORS 181.870-181.991. ORS 181.878(4)(d) and OAR 259-060-0500 allow for the collection of fees for certification of private security professionals. These fees, originally established in 1995, support seven full time employees who administer the program.

Issue: The licensing and certification fees are the primary revenue source for the private security and private investigator program. During the 2009-2011 biennium, a permanent rule was approved to increase the certification and licensing fees to cover a projected budget shortfall. During the 2011 Legislative Session, the Oregon State Legislature voted and approved a fee decrease for certain private security certificates and licenses. Staff is requesting immediate approval to adopt the identified fee decreases as a temporary rule while the proposed and permanent rulemaking process is underway.

The following revised language for OAR 259-060-0500 contains recommended additions (bold and underlined) and deletions (strikethrough text).

259-060-0500

License Fees

- (1) Payments to the Department are non-refundable, and must be paid by business check, money order, cashier's check or credit card. No personal checks or cash will be accepted.
- (2) The Department will charge the following fees:
  - (a) The fee of \$80 ~~\$65~~ for the issuance of each two-year certification as a private security professional.
  - (b) Appropriate fees must be submitted with each application for a fingerprint criminal history check. These fees are to recover the costs of administering the fingerprint check through the Oregon State Police and Federal Bureau of Investigation. An additional fee will be charged for the third submittal of fingerprint cards when rejected for filing by FBI. Current fee schedules for processing fingerprints may be obtained from the Department.
  - (c) The fee of \$100 ~~\$75~~ for the issuance of a two-year license as a supervisory manager.
  - (d) The fee of \$250 for the issuance of a two-year license as an executive manager.
  - (e) The fee of \$100 ~~\$90~~ for the issuance of a two-year certification as a private security instructor.
  - (f) The fee of \$20 for the issuance of each upgrade, duplicate or replacement card issued.

- (g) The late submission penalty fee of \$25 may be added to the fees for recertification if the provider fails to complete certification by the expiration date of the license or certificate. If an applicant provides documented proof, such as payroll data, that he or she has not been employed to provide private security services since the prior certification or licensure expired, the late penalty may be waived by the Department's designated staff.
- (h) In the event a non-sufficient check is received for payment, an additional \$25 administrative fee will be assessed.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

ACTION ITEM 1: Determine whether to approve filing the proposed language for OAR 259-060-0500 with the Secretary of State as a temporary rule.

ACTION ITEM 2: Determine whether to approve filing the proposed language for OAR 259-060-0500 with the Secretary of State as a proposed rule.

ACTION ITEM 3: Determine whether to approve filing the proposed language for OAR 259-060-0500 with the Secretary of State as a permanent rule if no comments are received.

ACTION ITEM 4: Determine whether there is a significant fiscal impact on small businesses.

## Attachment C

### Executive Committee

Julie Olsen-Fink

**Standard for Technical Rescuer Professional Qualification Proposed Revisions to OAR- 259-009-0005**

### Action Required Review and Approve

The Fire Policy Committee met on November 19, 2010 and reviewed NFPA 1006 Technical Rescuer Professional Qualifications. The standard was approved by the Fire Policy Committee (FPC) and the Board. After completion of the Public Comment period, the standard was adopted into Oregon Administrative Rule (OAR). Once rules are implemented into OAR, staff reviews them to assure accuracy. In doing so, it was discovered two of the new Technical Rescuer definitions for NFPA Dive Rescue and NFPA Surf Rescue were inadvertently omitted from the original proposed rule language. During its discussion of the standard the FPC stated their specific intent that NFPA Dive Rescue and NFPA Surf Rescue be included in the adoption of the standard. However those two definitions were excluded when the proposed language was published for comment

- 33) "NFPA Dive Rescue" means a Fire Service Professional who has met the job performance requirements defined in NFPA 1006, Chapter 11 sections 11.1 and 11.2, and Chapter 13.1 and 13.2
- 56) "NFPA Surf Rescue" means a Fire Service Professional who had met the job performance requirements defined in NFPA 1006, Chapter 11 sections 11.1 and 11.2, and Chapter 15 sections 15.1 and 15.2.

### Action Item I

Determine whether to approve filing the proposed language for OAR 259-009 0062 with the Secretary of State

### ACTION ITEM II

Filing the proposed language for OAR 259-009-0062 with the Secretary of State as permanent rule if no comments are received

### ACTION ITEM III

Determine whether there is a significant fiscal impact on small businesses.