

**Fire Policy Committee  
Minutes  
March 16, 2009**

The Fire Policy Committee of the Board on Public Safety Standards and Training held a Telephonic meeting at 1:00 p.m. on March 16, 2009 at the Oregon Public Safety Academy in Salem, Oregon. Vice Chair Kelly Bach called the meeting to order at 1:13 p.m.

**Attendees**

**Committee Members:**

Kelly Bach, Oregon State Fire Fighters Council, Vice Chair  
Larry Goff, Oregon Fire District Directors' Association  
William Klein, Community College Fire Programs  
William Lafferty, Oregon Department of Forestry  
Joe Seibert, Non-Management Firefighter  
Rod Smith, Oregon Fire Instructors Association

**Committee Members Absent:**

John Klum, Portland Fire & Rescue  
Mark Prince, Oregon Fire Chiefs' Association  
Randy Simpson, Oregon State Fire Marshal  
James Whelan, Oregon Volunteer Firefighters' Association, Chair

**DPSST Staff:**

Eriks Gabliks, Deputy Director  
Tina Diehl, Fire Certification Specialist  
Allison Sebern, Fire Certification Support Specialist  
Marilyn Lorance, Standards & Certification Program Supervisor  
Theresa King, Professional Standards Coordinator  
Bonnie Salle-Narvaez, Certification Coordinator



## 1. Proposed Rule Change to OAR 259-009-0070(6)

Kelly Bach thanked everyone for calling in.

Marilyn Lorance summarized the rule update that was being discussed to OAR 259-009-0070(6) with the addition of language that would identify an “attempt” to commit a crime listed in ORS 137.700 which is an attempted Measure 11, would be added to the list of discretionary disqualifiers.

**BACKGROUND:** As professional standards staff has begun reviewing criminal background information for firefighters, they have identified some concerns related to the list of mandatory and discretionary disqualifying convictions.

**Fire Policy Committee Meeting:** The Fire Policy Committee (FPC) met on February 20, 2009 and reviewed staff’s proposed language for OAR 259-009-0070 and recommended approving the language with an amendment that includes an “attempt” to commit any measure 11 crime as a discretionary disqualifying offense.

The following proposed language contains recommended additions (**bold and underlined text**) discussed under this section during the February 20, 2009 meeting. (Changes that the FPC reviewed at that meeting and voted to move forward are not identified in bold underlined text.)

### **259-009-0070**

#### **Denial/Revocation**

\* \* \*

(6) Pursuant to ORS 181.662(3)(b), the Department has determined that, in the absence of a determination to the contrary by the Fire Policy Committee and Board, a Fire Service Professional or Instructor who has been convicted of the following crimes has violated the core values of the fire service profession and may not be fit to receive or hold certification:

162.015 (Bribe Giving) – Category III,  
162.025 (Bribe Receiving) – Category III,  
162.065 (Perjury) – Category I,  
162.117 (Public Investment Fraud) – Category I,  
162.155 (Escape in the Second Degree) – Category II,  
162.165 (Escape in the First Degree) – Category II,  
162.185 (Supplying Contraband) – Category II,  
162.205 (Failure to Appear in the First Degree) – Category II,  
162.265 (Bribing a Witness) – Category III,  
162.275 (Bribe Receiving by a Witness) – Category III,  
162.285 (Tampering with a Witness) – Category III,  
162.305 (Tampering with Public Records) – Category III,  
162.325 (Hindering Prosecution) – Category III,  
162.355 (Simulating Legal Process) – Category III,  
162.365 (Criminal Impersonation) – Category I,  
162.367 (Criminal Impersonation of a Peace Officer) – Category I,  
162.415 (Official Misconduct in the First Degree) – Category II,

163.145 (Criminally Negligent Homicide) – Category III,  
163.160 (Assault in the Fourth Degree) – Category III,  
163.165 (Assault in the Third Degree) – Category III,  
163.205 (Criminal Mistreatment in the First Degree) – Category III,  
163.207 (Female Genital Mutilation) – Category III,  
163.208 (Assaulting a Public Safety Officer) – Category III,  
163.213 (Unlawful Use of an Electrical Stun Gun, Tear Gas or Mace in the First Degree) – Category II,  
163.245 (Custodial Interference in the Second Degree) – Category III,  
163.257 (Custodial Interference in the First Degree) – Category III,  
163.275 (Coercion) – Category III,  
163.355 (Rape in the Third Degree) – Category III,  
163.425 (Sexual Abuse in the Second Degree) – Category III,  
163.465 (Public Indecency) – Category III,  
163.515 (Bigamy) – Category III,  
163.525 (Incest) – Category III,  
163.535 (Abandonment of a Child) – Category III,  
163.537 (Buying or Selling a Person Under 18 years of age) – Category III,  
163.547 (Child Neglect in the First Degree) – Category III,  
163.555 (Criminal Non-Support) – Category III,  
163.670 (Using Child in Display of Sexually Explicit Conduct) – Category III,  
163.684 (Encouraging Child Sexual Abuse in the First Degree) – Category III,  
163.686 (Encouraging Child Sexual Abuse in the Second Degree) – Category III,  
163.688 (Possession of Materials Depicting Sexually Explicit Conduct of a Child in the Second Degree) – Category III,  
163.689 (Possession of Materials Depicting Sexually Explicit Conduct of a Child in the Second Degree) – Category III,  
163.732 (Stalking) – Category III,  
163.750 (Violating Court’s Stalking Protective Order) – Category III,  
164.045 (Theft in the Second Degree) – Category I,  
164.055 (Theft in the First Degree) – Category I,  
164.057 (Aggravated Theft in the First Degree) – Category I,  
164.075 (Theft by Extortion) – Category I,  
164.125 (Theft of Services: by Deception) – Category I,  
164.135 (Unauthorized Use of a Vehicle) – Category I,  
164.140 (Criminal Possession of Rented or Leased Personal Property: felony only) – Category I,  
164.170 (Laundering a Monetary Instrument) – Category I,  
164.172 (Engaging in a Financial Transaction in Property Derived from Unlawful Activity) – Category I,  
164.215 (Burglary in the Second Degree) – Category III,  
164.225 (Burglary in the First Degree) – Category III,  
164.235 (Possession of a Burglary Tool or Theft Device) – Category III,  
164.315 (Arson in the Second Degree) – Category II,  
164.325 (Arson in the First Degree – If not a conviction under ORS 137.700) – Category II,  
164.365 (Criminal Mischief in the First Degree) – Category III,  
164.377 (Computer Crime) – Category III,  
164.395 (Robbery in the Third Degree) – Category III,  
164.868 (Unlawful Labeling of a Sound Recording) – Category III,  
164.869 (Unlawful Recording of a Live Performance) – Category III,  
164.872 (Unlawful Labeling of a Videotape Recording) – Category III,  
164.885 (Endangering Aircraft) – Category II,  
164.889 (Interference with Agricultural Research) – Category III,  
165.013 (Forgery in the First Degree) – Category I,  
165.022 (Criminal Possession of a Forged Instrument in the First Degree) – Category I,  
165.032 (Criminal Possession of a Forgery Device) – Category I,  
165.055 (Fraudulent Use of a Credit Card: Felony Only) – Category I  
165.065 (Negotiating a Bad Check) – Category I,  
165.070 (Possessing Fraudulent Communications Device) – Category I,  
165.074 (Unlawful Factoring of Payment Card Transaction) – Category I,  
165.085 (Sports Bribery) – Category III,  
165.090 (Sports Bribe Receiving) – Category III,

165.579 (Cellular Counterfeiting in the Second Degree) – Category III,  
165.581 (Cellular Counterfeiting in the First Degree) – Category III,  
165.692 (Making False Claim for Health Care Payment) – Category I,  
165.800 (Identity Theft) – Category I,  
165.810 (Unlawful Possession of a Personal Identification Device) – Category I,  
165.813 (Unlawful Possession of Fictitious Identification) – Category I,  
166.005 (Treason) – Category II,  
166.015 (Riot) – Category II,  
166.085 (Abuse of Corps in the Second Degree) – Category II,  
166.087 (Abuse of Corps in the First Degree) – Category II,  
166.155 (Intimidation in the Second Degree) – Category III,  
166.165 (Intimidation in the First Degree) – Category III,  
166.220 (Unlawful Use of Weapon) – Category II  
166.270 (Possession of Weapons by Certain Felons: Felony only) – Category II,  
166.275 (Possession of Weapons by Inmates of Institutions) – Category II,  
166.370 (Possession of Firearm or Dangerous Weapon in Public Building or Court Facility; Exceptions; Discharging Firearm at School) – Category II,  
166.382 (Possession of Destructive Device Prohibited) – Category II,  
166.384 (Unlawful Manufacture of Destructive Device) – Category II,  
166.429 (Firearms Used in Felony) – Category II,  
166.438 (Transfer of Firearms at Gun Shows: Felony Only) – Category II,  
166.450 (Obliteration or Change of Identification Number on Firearms) – Category II,  
166.642 (Felon in Possession of Body Armor) – Category II,  
166.643 (Unlawful Possession of Body Armor) – Category II,  
166.649 (Throwing an Object Off an Overpass in the Second Degree) – Category III,  
166.660 (Unlawful Paramilitary Activity) – Category III,  
166.720 (Racketeering Activity Unlawful) – Category II,  
167.012 (Promoting Prostitution) – Category III,  
167.062 (Sodomasochistic Abuse or Sexual Conduct in Live Show: Felony Only) – Category III,  
167.164 (Possession of Gray Machine) – Category I,  
167.212 (Tampering with Drug Records) – Category I,  
167.262 (Adult Using Minor in Commission of Controlled Substance Offense: Felony Only) – Category III,  
167.322 (Aggravated Animal Abuse in the First Degree) – Category III,  
167.339 (Assaulting Law Enforcement Animal) – Category III,  
475.840 (Prohibited Acts Generally: Manufacture or Deliver a Controlled Substance) – Category II,  
475.846 (Unlawful Manufacture of Heroin) – Category II,  
475.848 (Unlawful Manufacture of Heroin Within 1,000 Feet of School) – Category III,  
475.850 (Unlawful Delivery of Heroin) – Category II,  
475.852 (Unlawful Delivery of Heroin Within 1,000 Feet of School) – Category III,  
475.854 (Unlawful Possession of Heroin) – Category II,  
475.856 (Unlawful Manufacture of Marijuana) – Category II,  
475.858 (Unlawful Manufacture of Marijuana Within 1,000 Feet of School) – Category III,  
475.860 (Unlawful Delivery of Marijuana: Felony only) – Category II,  
475.862 (Unlawful Delivery of Marijuana Within 1,000 Feet of School) – Category III,  
475.864 (Unlawful Possession of Marijuana: Felony only) – Category II,  
475.866 (Unlawful Manufacture of 3,4-Methylenedioxyamphetamine (Ecstasy)) – Category II,  
475.868 (Unlawful Manufacture of 3,4-Methylenedioxyamphetamine (Ecstasy) Within 1,000 Feet of School) – Category III,  
475.870 (Unlawful Delivery of 3,4-Methylenedioxyamphetamine (Ecstasy)) – Category II,  
475.872 (Unlawful Delivery of 3,4-Methylenedioxyamphetamine (Ecstasy) Within 1,000 Feet of School) – Category II,  
475.874 (Unlawful Possession of 3,4-Methylenedioxyamphetamine (Ecstasy)) – Category II,  
475.876 (Unlawful Manufacture of Cocaine) – Category II,  
475.878 (Unlawful Manufacture of Cocaine Within 1,000 Feet of School) – Category III,  
475.880 (Unlawful Delivery of Cocaine) – Category II,  
475.882 (Unlawful Delivery of Cocaine Within 1,000 Feet of School) – Category III,  
475.884 (Unlawful Possession of Cocaine) – Category II,  
475.886 (Unlawful Manufacture of Methamphetamine) – Category II,

475.888 (Unlawful Manufacture of Methamphetamine Within 1,000 Feet of School) – Category III,  
475.890 (Unlawful Delivery of Methamphetamine) – Category II,  
475.892 (Unlawful Delivery of Methamphetamine Within 1,000 Feet of School) – Category III,  
475.894 (Unlawful Possession of Methamphetamine) – Category II,  
475.904 (Unlawful Manufacture or Delivery of Controlled Substance Within 1,000 Feet of School) –  
Category III,  
475.908 (Causing Another Person to Ingest a Controlled Substance) – Category III,  
475.910 (Application of Controlled Substance to the Body of Another Person) – Category III,  
475.914 (Prohibited Acts for Registrants: Deliver or Dispense Controlled Substance) – Category II,  
475.962 (Distribution of Equipment, Solvent, Reagent or Precursor Substance with Intent to Facilitate  
Manufacture of Controlled Substances) – Category II,  
475.967 (Possession of Precursor Substance With Intent to Manufacture Controlled Substance) –  
Category II,  
475.977 (Possessing or Disposing of Methamphetamine Manufacturing Waste) – Category II,  
811.182 (Criminal Driving While Suspended or Revoked) – Category II,  
811.540 (Fleeing or Attempting to Elude Police Officer: Felony Only) – Category II,  
811.705 (Failure to Perform Duties of a Driver to Person Injured) – Category II,  
813.010 (DUII: Felony Only) – Category II

Any crime that requires the fire service professional or instructor to register as a sex offender.

**An “attempt” to commit a crime listed in ORS 137.700 or in any other jurisdiction that, if committed in this state would constitute an attempt to commit a crime listed in ORS 137.700 (and identified in OAR 259-009-0070(3)).**

**Action Item I:** Determine whether to recommend filing the proposed language for OAR 259-009-0070(6) with the Secretary of State as a proposed rule.

**Action Item II:** Determine whether to recommend filing the proposed language for OAR 259-009-0070(6) with the Secretary of State as a permanent rule if no comments are received.

**Action Item III:** Pursuant to HB 3238, determine whether there is a significant fiscal impact on small businesses. (See House Bill 3238) *No fiscal impact by consensus.*

***Bill Klein moved to recommend to the Board to file the proposed language for OAR 259-009-0070(6) with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Rod Smith seconded the motion. The motion carried in an unanimous vote.***

The next regular FPC meeting is scheduled for 5/22/09.

Meeting adjourned at 1:17 p.m.