

**Telecommunications Policy Committee
Minutes
February 2, 2011**

The Telecommunications Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on February 2, 2011 at the Oregon Public Safety Academy in Salem, Oregon. Chair Robert Poirier called the meeting to order at 11:02 a.m.

Attendees

Committee Members:

Robert Poirier, Public Safety Telecommunicators, Chair
Tamara Atkinson, Association of Public Safety Communications Officers
Rachel Brudnock, Telecommunicator
Pam Collett, Association of Public Safety Communications Officers
Molly Cotter, Oregon State Police
Daniel Coulombe, Oregon Association Chiefs of Police
Corinna Jacobs, Telecommunicator
Elizabeth Morgan, Emergency Medical Services and Trauma Systems
Joe Raade, Oregon Fire Medical Administrators Association
Committee Members Absent:
Rick Eisland, Oregon State Sheriffs' Association

DPSST Staff:

Eriks Gabliks, Director
Carolyn Kendrick, Administrative Assistant
Marilyn Lorange, Standards and Certification Supervisor
Theresa King, Professional Standards Investigator/Coordinator
Linsay Bassler, Certification Coordinator

1. Minutes from November 4, 2010 Meeting

Approve meeting minutes from November 4, 2010.

See Appendix A for details

- *Joe Raade moved to approve the minutes from the November 4, 2010 Telecommunications Policy Committee meeting. Elizabeth Morgan seconded the motion. The motion carried unanimously.*

Chair Poirier thanked staff for pulling the requested information regarding recommended revocation periods together on such short notice.

2. Historical Summary of Recommended Revocation Periods

Presented by Theresa King

See Appendix B for details.

Staff summarized the historical information and noted the only other case that was not recommended for lifetime revocation regarding dishonesty was a case heard by the Police Policy Committee. Staff stated it was the second case reviewed under the current voting requirements. The purpose of the information shared is to give background on voting history.

3. Deborah Hackney – DPSST #29627

Presented by Theresa King
See Appendix C for details

• *Tami Atkinson moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Joe Raade seconded the motion. The motion carried unanimously.*

• By discussion and consensus:

- a. Identify the conduct that is at issue.
- b. The identified conduct *did* involve **Dishonesty based on lies regarding placing the call and later admitting to not doing so, and about not receiving appropriate training.**
- c. The identified conduct *did* involve a **Disregard for the Rights of Others based on HACKNEY not feeding the inmates.**
- d. The identified conduct *did* involve **Misuse of Authority based on loss of public trust and potentially harming others by withholding meals.**
- e. The identified conduct *did* involve **Gross Misconduct based on gross deviation of policy by not sending the APB to California and withholding meals.**
- f. The identified conduct *did* involve **Misconduct based on violation of the law.**
- g. The identified conduct *did* involve **Insubordination based on admission of disobeying directives and sustained allegation of disobedience and insubordination.**

• By discussion and consensus, the Telecommunications Policy Committee must consider any mitigating and aggravating circumstances. *The committee noted HACKNEY's completion of rehabilitation as a mitigating circumstance. The committee stated as aggravating circumstances the long history of issues, and lying to her supervisor after rehabilitation, which shows a continued pattern of behavior.*

• *Elizabeth Morgan moved that the Telecommunications Policy Committee finds HACKNEY's conduct does rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) be revoked. Rachel Brudnock seconded the motion. The motion carried unanimously.*

• *Rachel Brudnock moved that the Telecommunications Policy Committee recommend to the Board that HACKNEY's misconduct encapsulated all of the categories noted above with a focus on the highest end of the Dishonesty category a lifetime disqualifier;*

HACKNEY may never reapply for certification. Joe Raade seconded the motion. The motion carried unanimously.

4. Janna Nissen – DPSST #46444

Presented by Theresa King

See Appendix D for details.

Chair Rob Poirier recused himself from voting on this case.

- *Corrina Jacobs moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Elizabeth Morgan seconded the motion. The motion carried unanimously by all voting with Rob Poirier abstaining.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case.
 - b. The identified conduct *did* involve **Dishonesty in the reporting of a warrant to her supervisor.**
 - c. The identified conduct *did* involve a **Disregard for the Rights of Others based on failure to serve and protect the public and endangerment of officers with lack of information and delay in dispatch.**
 - d. The identified conduct *did not* involve **Misuse of Authority.**
 - e. The identified conduct *did* involve **Gross Misconduct based on repeated pattern of failure to perform duties.**
 - f. The identified conduct *did* involve **Misconduct.**
 - g. The identified conduct *did* involve **Insubordination based on refusal/failure to fulfill work assignments and failure to complete status checks.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee did not identify any mitigating circumstances. The above issues were noted as aggravating by the committee.*
- *Tami Atkinson moved that the Telecommunications Policy Committee finds NISSEN's conduct does rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) be revoked. Joe Raade seconded the motion. The motion carried unanimously with Rob Poirier abstaining.*
- *Tami Atkinson moved that the Telecommunications Policy Committee recommend to the Board that NISSEN's misconduct encapsulated all but one of the categories noted above with a focus on the highest end of the Dishonesty category a lifetime disqualifier; NISSEN may never reapply for certification. Joe Raade seconded the motion. The motion carried unanimously with Rob Poirier abstaining.*

5. Brittney Rice – DPSST #45994

Presented by Theresa King

See Appendix E for details.

Corrina Jacobs recused herself from voting in this case.

ACTION ITEM 1 has been resolved

- During the November 4, 2010 Telecommunications Policy Committee (TPC) meeting, the TPC determined that RICE's conduct involved Dishonesty, Disregard for the Rights of Others, Misconduct and Insubordination, and rose to the level to warrant revocation. No new information has been received that would cause this Action Item to be revisited.

ACTION ITEM 2 was returned by the Board for reconsideration by the TPC.

- Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

Based on in-depth conversation and review of the historical summary of recommended revocation periods in cases involving dishonesty, Pam Collett moved that the Telecommunications Policy Committee recommend to the Board overturning the previous 7 year recommended initial revocation period and instead recommend that RICE's misconduct is a lifetime disqualifier; RICE may never reapply for certifications. Rachel Brudnock seconded the motion. The motion carried unanimously by all voting with Corrina Jacobs abstaining.

6. Tiffany Spaulding – DPSST #50341

Presented by Theresa King

See Appendix F for details.

Tami Atkinson recused herself from voting on this case.

- *Dan Coulombe moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Rachel Brudnock seconded the motion. The motion carried unanimously with Tami Atkinson abstaining.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case.
 - b. The identified conduct *did not* involve **Dishonesty**.
 - c. The identified conduct *did* involve a **Disregard for the Rights of Others based on omission of information on a CAD card regarding a missing person**.
 - d. The identified conduct *did not* involve **Misuse of Authority**.
 - e. The identified conduct *did* involve **Gross Misconduct based on deviation of policy—if full information was disclosed the outcome may have been different**.
 - f. The identified conduct *did* involve **Misconduct**.
 - g. The identified conduct *did not* involve **Insubordination**.

- By discussion and consensus, the Telecommunications Policy Committee must identify and consider any mitigating and aggravating circumstances.
- *Elizabeth Morgan moved that the Telecommunications Policy Committee suspend review of this case until additional pertinent information is received. Molly Cotter seconded the motion. The motion carried in a 7 to 1 vote with Pam Collett voting no and Tami Atkinson abstaining.*

7. **Julia Talbert – DPSST #27749**

Presented by Theresa King

See Appendix G for details.

- *Tami Atkinson moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Joe Raade seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case.
 - b. The identified conduct *did* involve **Dishonesty based on lies about disconnecting calls.**
 - c. The identified conduct *did* involve a **Disregard for the Rights of Others. People have a right to receive help from 911 without having the line intentionally disconnected.**
 - d. The identified conduct *did* involve **Misuse of Authority based on violation of public trust—overt act of disconnecting calls.**
 - e. The identified conduct *did* involve **Gross Misconduct based on gross deviation of process, possibly causing danger to people and property.**
 - f. The identified conduct *did* involve **Misconduct based on violation of the law – possible interference with making a report**
 - g. The identified conduct *did* involve **Insubordination based on violation of department policy and substantial breach in person’s duties.**
- By discussion and consensus, the Telecommunications Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances that after the internal investigation, the large number of instances of hang-up calls ceased, and that taking calls is the base function of the job. No mitigating circumstances were identified.*
- *Rachel Brudnock moved that the Telecommunications Policy Committee finds TALBERT’s conduct does rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) be revoked. Elizabeth Morgan seconded the motion. The motion carried unanimously.*

- *Joe Raade moved that the Telecommunications Policy Committee recommends to the Board that TALBERT's misconduct encapsulated all of the categories noted above with a focus on the highest end of the Dishonesty category a lifetime disqualifier; she may never reapply for certification. Rachel Brudnock seconded the motion. The motion carried unanimously.*

8. OAR 259-008-0060 – Proposed Rule

Presented by Linsay Bassler
See Appendix H for details.

Joe Raade moved that the Telecommunications Policy Committee recommend to the Board filing the proposed language for OAR 259-008-0060 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Tami Atkinson seconded the motion. The motion carried unanimously.

It is the consensus of the committee there is no significant fiscal impact on small business.

9. OAR 259-008-0070 – Proposed Rule to Reflect New Process

Presented by Linsay Bassler
See Appendix I for details.

Joe Raade moved that the Telecommunications Policy Committee recommend to the Board filing the proposed language for OAR 259-008-0070 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Molly Cotter seconded the motion. The motion carried unanimously.

It is the consensus of the committee there is no significant fiscal impact on small business.

10. OAR 259-008-0070 – Proposed Rule to Reflect Additional Identified Criminal Statutes

Presented by Linsay Bassler
See Appendix J for details.

Joe Raade moved that the Telecommunications Policy Committee recommend to the Board filing the proposed language for OAR 259-008-0070 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Dan Coulombe seconded the motion. The motion carried unanimously.

It is the consensus of the committee there is no significant fiscal impact on small business.

11. OAR 259-008-0011 – Proposed Rule

Presented by Linsay Bassler
See Appendix K for details.

Tami Atkinson moved that the Telecommunications Policy Committee recommend to the Board filing the proposed language for OAR 259-008-0011 with the Secretary of State as a

proposed rule and as a permanent rule if no comments are received. Elizabeth Morgan seconded the motion. The motion carried unanimously.

It is the consensus of the committee there is no significant fiscal impact on small business.

12. Next Telecommunications Policy Committee Meeting Date

May 4, 2011 at 11:00 a.m.

With no further business before the committee, the meeting adjourned at 1:40 p.m.

Appendix A

Telecommunications Policy Committee Minutes (Draft) November 4, 2010

The Telecommunications Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on November 4, 2010 at the Oregon Public Safety Academy in Salem, Oregon. Chair Robert Poirier called the meeting to order at 11:04 a.m.

Attendees

Committee Members:

Robert Poirier, Public Safety Telecommunicators, Chair
Tamara Atkinson, Association of Public Safety Communications Officers
Rachel Brodnock, Line Telecommunicator
Pam Collett, Association of Public Safety Communications Officers
Molly Cotter, Oregon State Police
Corinna Jacobs, Line Telecommunicator

Committee Members Absent:

Tom Clemo, Oregon Fire Chiefs' Association
Daniel Coulombe, Oregon Association Chiefs' of Police
Rick Eisland, Oregon State Sheriff's Association
Elizabeth Morgan, Emergency Medical Services and Trauma Systems
Joe Raade, Oregon Fire Medical Administrators' Association

DPSST Staff:

Eriks Gabliks, Director
Carolyn Kendrick, Administrative Assistant
Marilyn Lorange, Standards and Certification Supervisor
Theresa King, Professional Standards Investigator/Coordinator



1. Minutes from August 5, 2010 Meeting

Approve meeting minutes from August 5, 2010.

See Appendix A for details

Corrina Jacobs moved to approve the minutes from the August 5, 2010 Telecommunications Policy Committee meeting. Tami Atkinson seconded the motion. The motion carried unanimously.

2. Luanne Merkley – DPSST #45036

Presented by Theresa King

Due to MERKLEY signing a Stipulated Order, this case was pulled from the agenda.

3. **Brittney D. Rice – DPSST #45994**

Presented by Theresa King

See Appendix B for details

- *Tami Atkinson moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Pam Collett seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue. *False accusations of misconduct and the act of posting inappropriate information on the internet which identified herself as a Supervisor of the Police Department.*
 - b. The identified conduct did involve **Dishonesty based on trying to turn the blame to an innocent person and multiple lies to employer during the investigation.**
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on RICE falsely accusing an innocent person and involving additional people during the investigation.**
 - d. The identified conduct did not involve **Misuse of Authority**
 - e. The identified conduct did not involve **Gross Misconduct**
 - f. The identified conduct did involve **Misconduct based on the inappropriate behavior and representation of herself as a member of a law enforcement agency.**
 - g. The identified conduct did involve **Insubordination based violation of policy by engaging in unprofessional behavior.**
- By discussion and consensus, the Telecommunications Policy Committee must consider any mitigating and aggravating circumstances. *The Policy Committee only identified aggravating circumstances. They include: RICE was a supervisor who should have known better and held herself to a higher standard; the fact that the information was placed in a public forum for all to view; and RICE's multiple lies committed throughout the investigation. There were no mitigating circumstances noted by the committee.*
- *Rachel Brudnock moved that the Telecommunications Policy Committee finds RICE's conduct does not rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) not be revoked. Corrina Jacobs seconded the motion. The motion failed in a 4-2 vote with Rachel Brodnock and Corrina Jacobs voting yes.*
- *Pam Collett moved that the Telecommunications Policy Committee finds RICE's conduct does rise to the level to warrant the revocation of her certification(s), and*

therefore recommends to the Board that these certification(s) be revoked. Molly Cotter seconded the motion. The motion passed in a 5-1 vote with Corrina Jacobs voting no.

- *Rachel Brodnock moved that the Telecommunications Policy Committee recommend to the Board that RICE's misconduct reached the lowest level of all categories noted above with a focus on Dishonesty-a five year minimum period of ineligibility; RICE may reapply for certification after five years from the date of revocation. With no second, the motion failed.*
- *Tami Atkinson moved that the Telecommunications Policy Committee recommend to the Board that RICE's misconduct encapsulated all three categories noted above with a focus on the lower end of the Dishonesty category recommending a seven year minimum period of ineligibility; RICE may reapply for certification after seven years from the date of revocation. Molly Cotter seconded the motion. The motion carried unanimously.*

4. Additional Business

Presented by Eriks Gabliks

- There is a change in the Telecommunications Policy Committee membership. Mike Kee retired will no longer be on the committee. The Oregon Association Chiefs of Police chose Chief Daniel Colombe to be his replacement.
- DPSST is working with APCO/NENA regarding grant funds, which will provide for additional training. DPSST will try to offer approximately 10 various classes through June 2011. These classes will be free of charge. Lodging and food will be available for class participants at the Oregon Public Safety Academy.
- Intermediate and Advanced Matrix Chart: This work was delayed due to the uncertainty with the legislature. The subcommittees have finished their work on definitions. We are reconstituting a large group meeting to look at the work from each discipline subcommittee to cross-reference rules, etcetera for consistency. The next large group meeting is November 15, 2010. We hope to have reports for the Policy Committees soon.
- Chair Rob Poirier welcomed Rachel Brodnock to the Telecommunications Policy Committee and thanked her for her commitment and participation.

5. Next Telecommunications Policy Committee Meeting Date

February 2, 2011 at 11:00 a.m.

With no further business before the committee, the meeting adjourned at 12:00 p.m.

Appendix B

Discretionary Cases Involving Dishonesty 2009-2010

Year	Conduct	Discipline	Ineligibility Period	Ethics Bulletin
2009	Misleading during investigation	Police	Lifetime	74-B
2009	Untruthful with arresting officers	Police	Lifetime	74-C
2009	Untruthful during an investigation regarding relationship with an inmate	Corrections	Lifetime	74-E
2009	Theft-Civil Compromise	Corrections	Lifetime	74-F
2009	Untruthful when questioned about conduct	Corrections	Lifetime	74-G
2009	Claimed that he attended a training when he did not	Police	Lifetime	74-H
2009	Called in sick to attend a basketball game and was untruthful when questioned	Police	Lifetime	74-I
2009	Untruthful during an investigation	Police	Lifetime	74-K
2009	Falsified a police report	Police	Lifetime	74-M
2009	Untruthful during investigation and with Policy Committee	Corrections	Lifetime	74-O
2009	Ongoing pattern of untruthfulness	Police	7-years	72-B
2009	Untruthful during a multi-agency investigation and filed a false report	Police	Lifetime	71-A
2009	Untruthful during an internal investigation	Corrections	Lifetime	71-B
2009	Untruthful when reporting the facts of a call for service	Corrections	Lifetime	68-D
2009	Untruthful with arresting officers	Corrections	Lifetime	68-F
2010	Entered false information into a log, made false statements to a superior officer and lied to an inmate	Corrections	Lifetime	78-A

2010	Crawled into the back seat of his car after driving intoxicated and crashing it. Lied to arresting officers by asserting the passenger was driving	Corrections	Lifetime	78-D
2010	Untruthful during an investigation	Police	Lifetime	82-C
2010	Dishonest in her rendition of events in communications with a supervisor	Corrections	Lifetime	84-A
2010	Untruthful & a determination from the US Attorney General's Office that he was not a credible witness	Police	Lifetime	84-I
2010	Untruthful during an investigation	Police	Lifetime	84-L
2010	Completed police report containing inaccurate information regarding the disposal of illegal drugs	Police	Lifetime	84-M
2010	Untruthful about her location & actions during a call for service	Police	Lifetime	84-N
2010	Misrepresented his actions, statements and documentation in his police report	Police	Lifetime	84-O
2010	Untruthful during the internal investigation	Corrections	Lifetime	85-A
2010	Made untruthful allegations against a co-worker	Telecommuni- cator - Brittney Rice	7-years	86-A
2010	Falsified tier checks & was untruthful when questioned about an inmate in a restricted area	Corrections	Lifetime	86-C
2010	Dishonest during an investigation	Police	Lifetime	86-F

Appendix C

Department of Public Safety Standards and Training Memorandum

DATE:February 2, 2011

TO:Telecommunications Policy Committee

FROM:Theresa M. King

Professional Standards Investigator/Coordinator

SUBJECT:Deborah HACKNEY DPSST #29627

ISSUE:

Should Deborah HACKNEY's Basic Telecommunications, Emergency Medical Dispatcher and Corrections certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to HACKNEY:

On June 14, 1994, HACKNEY was hired by the Junction City Police Department as a dispatcher.

On April 19, 1996, HACKNEY was granted Basic Telecommunicator and Emergency Medical Dispatcher Certificates.

On August 12, 2004, HACKNEY was reclassified as a corrections officer.

On April 5, 2006, HACKNEY was granted a Basic Corrections Certificate.

On March 18, 2010, HACKNEY was discharged for cause from the Junction City Police Department.

DPSST sought and obtained underlying information that led to the discharge.

On October 5, 2010, DPSST issued a Notice of Intent to Revoke Certifications, based on the discharge for cause. HACKNEY, through her legal counsel made a timely request for a hearing.

Subsequent to this DPSST received an amended F4, Personnel Action Report, citing, "Resignation in lieu of termination" as the type of separation. This was accompanied by a Settlement Agreement.

On October 28, 2010, DPSST issued a Withdrawal of Notice and Termination of Proceedings, based on the discharge for cause.

In December 2010, DPSST sent a certified letter to HACKNEY advising her that her case would be heard before the Telecommunications Policy Committee (TPC) and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration.

DPSST requested and received clarification regarding the change in separation status, to determine if any facts in the underlying investigation had changed or if there was new information.

In December 2010, HACKNEY, through her attorney, provided information to the TPC. DPSST responded to HACKNEY's inquiry and obtained additional information. DPSST

included the DUII Related Discretionary Cases research, as requested by policy committees.

DISCUSSION:

ORS. 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

STANDARD OF PROOF:

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

ISCRETIONARY DISQUALIFYING MISCONDUCT

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

- (A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);
- (B) If the misconduct resulted in a conviction:
 - (i) Whether it was a misdemeanor or violation;
 - (ii) The date of the conviction(s);
 - (iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;
 - (iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;
 - (v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;
 - (vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;
 - (vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;
- (C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;
- (D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;
- (E) Whether the misconduct involved domestic violence;
- (F) Whether the public safety professional or instructor self reported the misconduct;
- (G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;
- (H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;
- (I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and make a recommendation to the Board whether or not to revoke HACKNEY's certifications based on violation of the established moral fitness standards:

1. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not* involve **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Policy Committee finds HACKNEY conduct *does/does not* rise to the level to warrant the revocation of her certifications(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Appendix D

Department of Public Safety Standards and Training Memorandum

DATE:February 2, 2011
TO:Telecommunications Policy Committee
FROM:Theresa M. King
Professional Standards Investigator/Coordinator

SUBJECT:Janna NISSEN DPSST #46444

ISSUE:

Should Janna NISSEN's Basic Telecommunicator certification be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0011, and as referenced in OAR 259-008-0070?

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to NISSEN:

On December 28, 2005, NISSEN was hired by the Lebanon Police Department as a dispatcher.

On February 7, 2007, NISSEN was granted a Basic Telecommunicator Certificate.

On August 26, 2009, NISSEN resigned from the Lebanon Police Department in lieu of termination.

DPSST sought and obtained underlying information that led to the resignation.

In December 2010, DPSST sent a certified letter to NISSEN advising her that her case would be heard before the Telecommunications Policy Committee (TPC) and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration.

DISCUSSION:

ORS. 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

STANDARD OF PROOF:

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

DISCRETIONARY DISQUALIFYING MISCONDUCT

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

- (v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;
- (vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;
- (vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;
- (C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;
- (D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;
- (E) Whether the misconduct involved domestic violence;
- (F) Whether the public safety professional or instructor self reported the misconduct;
- (G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;
- (H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;
- (I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and make a recommendation to the Board whether or not to revoke NISSEN's certification based on violation of the established moral fitness standards:

1. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not* involve **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

4. By vote, the Policy Committee finds NISSEN's conduct *does/does not* rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Appendix E

Department of Public Safety Standards and Training Memorandum

DATE:February 2, 2011

TO:Telecommunications Policy Committee

FROM:Theresa King

Professional Standards Investigator/Coordinator

SUBJECT:Brittney D. RICE DPSST #45994

ISSUE:

Should Brittney RICE's Basic Telecommunication and Emergency Medical Dispatcher certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to RICE:

On August 15, 2005, RICE was hired by the Klamath County 911 Communications as a Dispatcher.

On May 16, 1006, RICE was granted Basic Telecommunications Certificate and Basic Emergency Medical Dispatcher Certificates.

On August 27, 2006 RICE resigned from the Klamath County 911 Communications.

On May 11, 2009, RICE was hired by the Lebanon Police Department as a dispatcher.

On April 5, 2010, RICE resigned from the Lebanon Police Department, in lieu of termination. DPSST sought and obtained information relating to the resignation in lieu of termination.

In September 2010, DPSST mailed RICE a letter advising her that her case would be heard before the Telecommunications Policy Committee (TPC) and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail. No response was received.

On November 4, 2010, the Telecommunications Policy Committee (TPC) reviewed this case and recommended revocation of RICE's certification, based on the following determinations:

- A. In substance, the TPC adopted the Staff Report and associated documents as the record on which their recommendation was based.
- B. The TPC determined that RICE's conduct involved *Dishonesty* when she made untruthful allegations against a co-worker and she was repeatedly dishonest during the internal investigation.
- C. The TPC determined that RICE's conduct involved the *Disregard for the Rights of Others* when she disregarded the personal right of her co-worker by falsely accusing the individual of misconduct.
- D. The TPC determined that RICE's conduct did not involve *Misuse of Authority*.
- E. The TPC determined that RICE's conduct did not involve *Gross Misconduct*.

- F. The TPC determined that RICE's conduct involved *Misconduct* when she tied inappropriate comments and contents of her personal social internet site to her agency by identifying herself as a supervisor of the police department she was employed with. Also RICE engaged in *Misconduct* when she was untruthful and violated the integrity standards that are followed in public safety.
- G. The TPC determined that RICE's misconduct involved *Insubordination* when she did not abide by stated policies.
- H. The TPC determined there was no mitigating circumstances but that there were aggravating circumstances which included that RICE was a supervisor and held to a higher standard, that she engaged in ongoing acts of untruthfulness during the internal investigation, that she used a public forum, a social internet site, to link her position and employment with inappropriate sexual content and preference, and that she falsely accused another employee of misconduct.
- I. The TPC determined in a vote of 5 to 1 that RICE's conduct rises to the level to warrant the revocation of her certifications and recommended to the Board the same.
- J. The TPC determined in a unanimous vote that RICE's conduct warrants a seven year minimum length of ineligibility to apply for re-consideration for certification.

On November 10, 2010, RICE was issued a Notice of Intent to Revoke Certifications. She did not make a timely request for a hearing. RICE's certifications were revoked by default.

On January 27, 2011, the Board on Public Safety Standards and Training met and this matter was pulled from the consent agenda for further discussion. At that time DPSST requested that the record to be amended to reflect the inclusion of Insubordination and to strike the TPC Staff Report with handwritten notes which had been inadvertently included in the information packet from the record. At issue for the Board members was the length of ineligibility based on the TPC's findings that RICE had engaged in Dishonesty. Board members recalled that the TPC wanted to ensure their standards of conduct met the same standards as those for other public safety disciplines, however their length of ineligibility for Dishonesty was not consistent with the other Committees. Ultimately, the Board recommended that this matter be returned to the TPC for further consideration of two specific areas; an articulated justification for the length of ineligibility for the category of Dishonesty, and a reconsideration of the stated length of ineligibility from the November 4th TPC meeting. TPC Chair and Board member Poirier advised the Board he would carry their concerns back to the TPC and asked DPSST staff to include this matter in the upcoming February 2, 2011 TPC meeting as an agenda item.

DISCUSSION:

ORS. 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

STANDARD OF PROOF:

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

DISCRETIONARY DISQUALIFYING MISCONDUCT

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

- (ii) The date of the conviction(s);
- (iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;
- (iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;
- (v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;
- (vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;
- (vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;
- (C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;
- (D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;
- (E) Whether the misconduct involved domestic violence;
- (F) Whether the public safety professional or instructor self reported the misconduct;
- (G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;
- (H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;
- (I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

ACTION ITEM 1 has been resolved

During the November 4, 2010 TPC meeting, the TPC determined that RICE's conduct involved Dishonesty, Disregard for the Rights of Others, Misconduct and Insubordination, and rose to the level to warrant revocation. No new information has been received that would case this Action Item to be revisited.

ACTION ITEM 2 returned for reconsideration

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).

(E) Category V: Misconduct (3 years to 7 years).

(F) Category VI: Insubordination (3 years to 7 years).

By vote, the Telecommunications Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Appendix F

Department of Public Safety Standards and Training Memorandum

DATE:February 2, 2011
TO:Telecommunications Policy Committee
FROM:Theresa M. King
Professional Standards Investigator/Coordinator

SUBJECT:Tiffany Spaulding DPSST #50341

ISSUE:

Should Tiffany SPAULDING's Basic Telecommunicator and Emergency Medical Dispatcher certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0011, and as referenced in OAR 259-008-0070?

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to SPAULDING:

On January 1, 2009, SPAULDING was hired by the Lincoln County Communications as a dispatcher.

On February 12, 2009, SPAULDING signed her Criminal Justice Code of Ethics.

On June 24, 2010, SPAULDING was granted Basic Telecommunicator and Emergency Medical Dispatcher Certificates.

On October 4, 2010, SPAULDING resigned from the Lincoln County Communications during an investigation.

DPSST sought and obtained information relating to the resignation.

In December 2010, DPSST sent a certified letter to SPAULDING advising her that her case would be heard before the Telecommunications Policy Committee (TPC) and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration.

On or about January 5, 2011, staff received a letter from SPAULDING for the TPC's consideration.

DISCUSSION:

ORS. 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

STANDARD OF PROOF:

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

DISCRETIONARY DISQUALIFYING MISCONDUCT

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

- (iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;
- (iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;
- (v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;
- (vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;
- (vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;
- (C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;
- (D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;
- (E) Whether the misconduct involved domestic violence;
- (F) Whether the public safety professional or instructor self reported the misconduct;
- (G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;
- (H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;
- (I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and make a recommendation to the Board whether or not to revoke SPAULDING's certifications based on violation of the established moral fitness standards:

1. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not* involve **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.

3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Policy Committee finds SPAULDING's conduct *does/does not* rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Appendix G

Department of Public Safety Standards and Training Memorandum

DATE:February 2, 2011
TO:Telecommunications Policy Committee
FROM:Theresa M. King
Professional Standards Investigator/Coordinator

SUBJECT:Julia TALBERT DPSST #27749

ISSUE:

Should Julia TALBERT's Basic Telecommunicator and Emergency Medical Dispatcher certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0011, and as referenced in OAR 259-008-0070?

BACKGROUND and OVERVIEW

This case involves the following actions and processes related to TALBERT:

On October 8, 1992, TALBERT was hired by the Bureau of Emergency Communications (BOEC) as a dispatcher.

On August 31, 1994, TALBERT signed her Criminal Justice Code of Ethics.

On September 21, 1994, TALBERT was granted Basic Telecommunicator and Emergency Medical Dispatcher Certificates.

On August 6, 2010, TALBERT resigned from BOEC during an investigation.

DPSST sought and obtained information relating to the resignation.

In December 2010, DPSST sent a certified letter to TALBERT advising her that her case would be heard before the Telecommunications Policy Committee (TPC) and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration.

DISCUSSION:

ORS. 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

STANDARD OF PROOF:

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not. [Ref ORS 183.450(5)]

DISCRETIONARY DISQUALIFYING MISCONDUCT

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties.

POLICY COMMITTEE AND BOARD REVIEW:

OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

- (v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;
- (vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;
- (vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;
- (C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;
- (D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;
- (E) Whether the misconduct involved domestic violence;
- (F) Whether the public safety professional or instructor self reported the misconduct;
- (G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;
- (H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;
- (I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and make a recommendation to the Board whether or not to revoke TALBERT's certifications based on violation of the established moral fitness standards:

1. By vote, the Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case.
 - b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did not* involve **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

4. By vote, the Policy Committee finds TALBERT's conduct *does/does not* rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

By vote, the Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.

Appendix H

Department of Public Safety Standards and Training Memo

Date: May 10, 2011
To: Corrections Policy Committee
From: Linsay Bassler
Rules Coordinator

Subject: OAD 259-008-0010 – Proposed Rule
Minimum Standards for Employment as a Law Enforcement Officer

Issue: This rule update would remove all reference to Forms F-15M (Multi-Discipline Maintenance Log) and F-15T (Telecommunications/EMD Maintenance Log) and replace with Form F-16 (Maintenance Training Log – Tele/EMD/Multi-Discipline). The maintenance process was changed for the 2009 – 2010 maintenance period, but the processes and form references in this rule were not updated. All references to training points were also removed as requirements to obtain and maintain certification reference training hours, rather than converting them to points. Other obsolete rule references regarding training were also removed. Finally, this update removes obsolete statutory references, updates OAD references, and makes minor housekeeping changes for clarity.

The following revised language for OAD 259-008-0060 contains recommended additions (**bold and underlined**) and deletions (~~strike through text~~).

259-008-0060

Public Safety Officer Certification

- (1) Basic, Intermediate, Advanced, Supervisory, Management, Executive and Instructor Certificates are awarded by the Department to law enforcement officers and telecommunicators meeting prescribed standards of training, education, experience; and the levels established by the employing law enforcement units, or public or private safety agencies. Emergency medical dispatchers may be awarded basic certification only.
- (2) Basic certification is mandatory and ~~shall~~ **must** be acquired by all police officers, parole and probation officers, telecommunicators, and emergency medical dispatchers within 18 months of employment, and by all corrections officers within one year of employment unless an extension is granted by the Department.
- (3) To be eligible for the award of a certificate, law enforcement officers ~~shall~~ **must** be full-time employees as defined by ORS 181.610 and OAD 259-008-0005 or part-time parole and probation officers, as described in ORS 181.610 and OAD 259-008-0066.
- (4) To be eligible for the award of a certificate, law enforcement officers ~~shall~~ **must** meet the Board's prescribed minimum employment standards as established by OAD 259-008-0010.
- (5) To be eligible for the award of a certificate, telecommunicators must meet the Board's prescribed minimum employment standards as established by OAD 259-008-0011.

(6) To be eligible for the award of a certificate, law enforcement officers ~~shall~~ **must** subscribe to and swear or affirm to abide by the Criminal Justice Code of Ethics (Form F11). Telecommunicators and emergency medical dispatchers ~~shall~~ **must** subscribe to and swear or affirm to abide by the Telecommunicator Code of Ethics. (Form F-11T). ~~{Form not included. See ED. NOTE.}~~

(7) Application for certification must be submitted on Form F7 (**Application for Certification**), with all applicable sections of the form completed. The form ~~shall~~ **must** be signed by the applicant. In order to ~~insure~~ **ensure** that the applicant ~~does or does not~~ **meets** the minimum standards of employment, training, education, and experience, and is competent to hold the level of certification for which the applicant has applied, the department head or authorized representative ~~shall~~ **must** sign the form recommending that the certificate be issued or withheld. If the department head chooses not to recommend the applicant's request for certification, the reason for this decision ~~shall~~ **must** be specified in writing and ~~shall~~ **must** accompany the ~~Application for Certification~~ (Form F7). ~~{Form not included. See ED. NOTE.}~~

(8) When a department head is the applicant, the above recommendation ~~shall~~ **must** be made by the department head's appointing authority such as the city manager or mayor, or in the case of a specialized agency, the applicant's superior. Elected department heads are authorized to sign as both applicant and department head.

(9) In addition to the requirements set forth above, ~~each applicant, for the award of an Intermediate, Advanced, Supervisory, Management, or Executive Certificate,~~ **each applicant must** have completed the designated education and training, combined with the prescribed corrections, parole and probation, police or telecommunications experience **for the award of an Intermediate, Advanced, Supervisory, Management, or Executive Certificate.**

(a) Each quarter credit unit granted by an accredited college or university which operates on a quarterly schedule ~~shall~~ **will** equal one (1) education credit.

(b) Each semester credit unit granted by an accredited college or university operating on a semester schedule ~~shall~~ **will** equal one and one half (1-1/2) education credits.

(c) The Department must receive sealed official transcripts from a college prior to entering college credit on an individual's official record.

(10) ~~Training: Points. Twenty (20) classroom hours of job-related training approved by the Department shall equal one (1) training point. (Example: 200 training hours equal 10 training points.)~~

(a) ~~Basic, Intermediate, Advanced, Supervisory, Middle Management, Executive, or Specialized courses certified, sponsored, or presented by the Department shall be approved~~ **by the Board.**

(b) The Department may award **record** training **points** **hours** for departmental or other in-service training which is recorded and documented in the personnel files of the trainee's department. These records ~~shall~~ **must** include the subject, instructor, classroom hours, date, sponsor, and location.

(c) Training completed in other states, military training, and other specialized training, if properly documented, may be accepted, subject to staff evaluation and approval. These records ~~shall~~ **must** include the subject, date, and classroom hours, and ~~shall~~ **must** be certified true copies of the original.

~~(d) Upon receipt of documentation which shall include the source, syllabus, number of hours, dates and successful completion of the course, the Department or its designated staff may award training points for correspondence courses.~~

~~(e)~~ **(d)** College credits earned may be counted for either training ~~points~~ **hours** or education credits, whichever is to the advantage of the applicant.

~~(f)~~ **(e)** College credit awarded based on training completed may be applied toward either training ~~points~~ **hours** or education credits, whichever is to the advantage of the applicant.

(A) Prior to applying an applicant's college credit toward any upper level of certification, the Department must receive documentation of the number of college credits awarded based on training attended.

(B) The training hours identified under paragraph (A) and submitted as college credit toward an upper level of certification will not be included in any calculation of whether the applicant has earned sufficient training hours to qualify for the requested certification level~~(s)~~.

(i) Any college credit received for practical or skills-based training attended will be calculated at a ratio of 1:20 hours for each quarter credit, for purposes of training hour deductions.

(ii) Any college credit received for academic training attended will be calculated at a ratio of 1:10 hours for each quarter credit, for purposes of training hour deductions.

~~(g)~~ **(f)** ~~Notwithstanding subsection (e) and (f) above, no~~ **No** credit can be applied toward both an education credit~~s~~ and training ~~point~~ **hours** when originating from the same training event.

(11) Experience/Employment:

(a) Experience ~~acquired~~ **gained** as a corrections, parole and probation, or police officer employed full time with municipal, county, state, or federal agencies, may be accepted if the experience is in the field in which certification is requested and is approved by the Department. For the purpose of this rule, creditable service time for experience will ~~ease to~~ **not** accrue under the following circumstances:

(A) When an individual is employed in a casual, seasonal, or temporary capacity;

(B) When an individual is on "leave;"

~~(C)~~ **(B)** ~~Notwithstanding section (B) of this rule, a~~ **A** public safety professional may submit a written request for credit for military time served upon return from his or her military duty. The Department will evaluate each written request to determine whether an individual is eligible for any credit for time served~~;~~

~~(D)~~ **(C)** From the date a public safety professional's certification is recalled until it is reinstated by the Department; **or**

~~(E)~~ **(D)** When a public safety professional fails to obtain Basic certification within a mandated timeframe and is prohibited from being employed as a public safety professional~~;~~

(b) Experience acquired as a telecommunicator or emergency medical dispatcher employed with a public or private safety agency may be accepted if the experience is in the field in which certification is requested and is approved by the Department.

(c) Experience acquired as a certified part-time telecommunicator~~,or~~ **or** emergency medical dispatcher as defined in OAR 259-008-0005~~(12) and (32) respectively~~, or part time parole and

probation officer, as defined under 259-008-0005(20) and (21) and 259-008-0066, ~~shall~~ **will** count on a pro-rated basis.

(d) Police, corrections, parole and probation, telecommunicator, or emergency medical dispatch experience in fields other than that in which certification is requested may receive partial credit when supported by job descriptions or other documentary evidence. In all cases, experience claimed is subject to evaluation and approval by the Department.

(12) The Basic Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Basic Certificate:

(a) Applicants ~~shall~~ **must** have completed a period of service of not less than nine (9) months with one or more law enforcement units, or public or private safety agencies in a certifiable position, in the field in which certification is being requested;

(b) Applicants ~~shall~~ **must** have satisfactorily completed the required Basic Course in the field in which certification is requested or have completed equivalent training as determined by the Department; **and**

(c) Applicants ~~shall~~ **must** have valid first aid and cardiopulmonary resuscitation (CPR) card(s).

(13) The Intermediate Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Intermediate Certificate:

(a) Applicants ~~shall~~ **must** possess a Basic Certificate in the field in which certification is requested; **and**

(b) Applicants ~~shall~~ **must** have acquired the following combinations of education **hours** and training ~~points~~ **hours** combined with the prescribed years of police, corrections, parole and probation or telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

(14) The Advanced Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Advanced Certificate:

(a) Applicants ~~shall~~ **must** possess or be eligible to possess the Intermediate Certificate in the field in which certification is requested; **and**

(b) Applicants ~~shall~~ **must** have acquired the following combinations of education and training ~~points~~ **hours** combined with the prescribed years of corrections, parole and probation, police, telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

(15) The Supervisory Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Supervisory Certificate:

(a) Applicants ~~shall~~ **must** possess or be eligible to possess the Advanced Certificate in the field in which certification is requested;

(b) Applicants ~~shall~~ **must** have satisfactorily completed no less than 45 education credits as defined in section (10) of this rule;

(c) Applicants ~~shall~~ **must** have satisfactorily completed the prescribed Supervision Course or an equivalent number of hours of Department-approved supervisory level training within five (5) years prior to application for the Supervisory Certificate; **and**

(d) Applicants ~~shall~~ **must** be presently employed in, or have satisfactorily performed the duties associated with, the position of a first-level supervisor, as defined in ~~ORS 181.610 and OAR 259-008-0005(16)(13)~~, **and** as attested to by the applicant's department head during the time such duties were performed, for a period of one (1) year. The required experience ~~shall~~ **must** have been acquired within five (5) years prior to the date of application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (c) or (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, supervisory duties.

(16) The Management Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Management Certificate:

(a) Applicants ~~shall~~ **must** possess or be eligible to possess the Supervisory Certificate in the field in which certification is requested;

(b) Applicants ~~shall~~ **must** have satisfactorily completed no less than 90 education credits as defined in section (10) of this rule;

(c) Applicants ~~shall~~ **must** have satisfactorily completed the prescribed Middle Management Course or an equivalent number of hours of Department-approved management level training within five (5) years prior to application for the Management Certificate; **and**

(d) Applicants ~~shall~~ **must** be presently employed in, and ~~shall~~ **must** have served satisfactorily in a Middle Management position, as an ~~Assistant~~ Department Head, or as a **Assistant** Department Head as defined in ~~ORS 181.610 and~~ OAR 259-008-0005, for a period of two (2) years. The required experience must have been acquired within five (5) years prior to the date of application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (c) or (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, management duties.

(17) The Executive Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Executive Certificate:

(a) Applicants ~~shall~~ **must** possess or be eligible to possess the Management Certificate in the field in which certification is requested;

(b) Applicants ~~shall~~ **must** have satisfactorily completed no less than 90 education credits as defined in section (10) of this rule;

(c) Applicants ~~shall~~ **must** have satisfactorily completed 100 hours of Department-approved executive level training within five (5) years prior to application for the Executive Certificate; **and**

(d) Applicants ~~shall~~ **must** be presently employed in, and ~~shall~~ **must** have served satisfactorily in a Middle Management position, as an ~~Assistant~~ Department Head, or as a **Assistant** Department Head as defined in OAR 259-008-0005, for a period of two (2) years. The required experience must have been acquired within five (5) years prior to the date of the application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (c) or (d) of this section, provided the employing agency demonstrates that the

applicant performs, on a regular basis, the duties associated with that of a department head or assistant department head.

(18) Multi-discipline Certification. Upon receiving written request from the department head stating a justified and demonstrated need exists for the efficient operation of the employing agency, the Department may approve multi-discipline certification for law enforcement officers who meet all minimum employment, training and education standards established in OAR 259-008-0010, ~~259-008-0011~~, 259-008-0025, and this rule, in the disciplines which they are requesting certification. The officer must meet the following requirements for the award of multi-discipline certification:

(a) Basic certification: A law enforcement officer who is certified in one discipline may apply for multi-discipline certification; if employed in or transferred to another discipline within the same law enforcement unit. The applicant must demonstrate completion of all training requirements in the discipline in which certification is being requested.

(b) Higher levels of certification: Law enforcement officers who possess higher levels of certification in one discipline may, upon employment in or transfer to another discipline within the same law enforcement unit, apply for the same level of certification after completion of nine (9) months experience in the discipline in which they are requesting certification; and meeting the requirements for those higher levels of certification as outlined in this rule. This section does not apply to the ~~EMD~~ **emergency medical dispatcher** discipline since it only exists at the basic certification level.

(c) Retention of ~~M~~**multi-discipline** certification. In order to maintain multi-discipline certification, each discipline in which certification is held requires successful completion and documentation of training hours by the holders of the certificates every twelve (12) months. The training must be reported to the Department, as follows:

(A) For a law enforcement officer who also holds ~~EMD~~ **emergency medical dispatcher** certification; a minimum of four (4) hours of training; specific to the ~~EMD~~ **emergency medical dispatcher** discipline; must be reported annually as required under OAR 259-008-0064.

(B) For a law enforcement officer who also holds ~~T~~**telecommunicator** certification, a minimum of twelve (12) hours of training; specific to the ~~T~~**telecommunicator** discipline; must be reported annually as required under OAR 259-008-0064.

(C) A minimum of twenty (20) hours of training; specific to each law enforcement discipline in which certification is held; must be reported annually as required under subsections (h) through (l) of this ~~rule~~ **section**.

(d) The same training may be used for more than one discipline if the content is specific to each discipline. It is the responsibility of the agency head to determine if the training is appropriate for more than one discipline.

(e) The maintenance training cycle for law enforcement officers who are certified in more than one discipline begins on July 1st of each year and ends on June 30th the following year.

(f) The employing agency must maintain documentation of all required maintenance training completed.

(g) If reported on an ~~an~~ **Form** F-6 (Course **Attendance** Roster), required maintenance training must be submitted to the Department by June 30th of each year. Training reported on an ~~an~~ **Form** F-6

will result in credit for training hours. No training hours will be added to a law enforcement officer's record, unless accompanied by an **Form F-6 Course Attendance Roster**.

(h) On or after July 1st of each year, the Department will identify all law enforcement officers who are deficient in maintenance training according to Department records and provide notification to the individual and ~~his/her~~ **the** employing agency.

~~(i)~~ **(A)** Within 30 days of receipt of the notification in ~~(h)~~ above, the agency ~~or individual~~ must:

~~(A)~~ **(A)** Notify the Department of the training status of any law enforcement officer identified as deficient in **by** submitting a Form **F-16 (Maintenance Training Log) F-15M or F-15T** to the Department; and

~~(B)~~ **(B)** Submit an **Form F-16 F-15M, or F-15T** if multi-discipline includes certification as a telecommunicator or emergency medical dispatcher, identifying the maintenance training completed during the previous one (1) year reporting period.

~~(C)~~ **(B)** Maintenance training hours reported to the Department on ~~an F-15M or F-15T~~ **a Form F-16** will be used solely to verify completion of maintenance training requirements and will not be added to an officer's DPSST training record.

~~(j)~~ **(j)** Failure to notify the Department of completion of any required training for individuals with identified training deficiencies will result in a notification of recall letter being sent to the agency head and the officer.

~~(k)~~ **(k)** The Department will recall a law enforcement officer's certification for:

(A) Failure to complete or report any required maintenance training identified in section ~~(e)~~ above on or before June 30th of each year; or

(B) Failure to submit a Form **F-16 F-15M or F-15T** within 30 days after a warning notification letter has been sent.

~~(l)~~ **(k)** A law enforcement officer with a recalled certification is prohibited from being employed in any position **for which the certification** that has been recalled.

~~(m)~~ Upon documentation of compliance with subsection (i) of this rule, a law enforcement officer may reapply for single or multi-discipline certification as outlined by this rule.

(l) Recertification following a recall may be obtained at the approval of the Department by submitting the following:

(A) A written request from the employing agency head requesting recertification, along with a justification of why the maintenance training was not completed; and

(B) Verification that the missing training was completed.

(m) Failure to complete the required maintenance training may not result in a recall of certification if the law enforcement officer is on leave from a public or private safety agency.

~~(19) Certificates Are Property of Department.~~ Certificates and awards are the property of the Department, and ~~the~~ **the** Department shall have **has** the power to revoke or recall any certificate or award as provided in the Act.

[ED. NOTE: Forms & Tables referenced are available from the agency.]

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0060 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0060 with the Secretary of State as a permanent rule if no comments are received.

ACTION ITEM 3: Determine whether there is a significant fiscal impact on small businesses.

Appendix I

Department of Public Safety Standards and Training Memo

Date:February 2, 2011
To:Telecommunications Policy Committee
From:Linsay Bassler
Rules Coordinator

Subject:OAR 259-008-0070 – Proposed Rule
Denial/Revocation

Issue: House Bill 2790 was passed during the 2009 legislative session. Section 3 of this bill amended ORS 181.661 which changed the order of due process for certification denials and revocations. Additional housekeeping changes were made for clarity.

The following revised language for OAR 259-008-0070 contains recommended additions (**bold and underlined**) and deletions (~~strike through text~~).

259-008-0070

Denial/Revocation

(9) Denial and Revocation Procedure.

(d) Policy Committee and Board Review: In making a decision to authorize initiation of proceedings under subsection (e) of this rule, based on discretionary disqualifying misconduct, the Policy Committees and Board will consider mitigating and aggravating circumstances, including, but not limited to, the following:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during, and after);

(B) If the misconduct resulted in a conviction:

(i) Whether it was a misdemeanor or violation;

(ii) The date of the conviction(s);

(iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;

(iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;

(v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;

(vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire; **and**

(vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;

(C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;

(D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;

(E) Whether the misconduct involved domestic violence;

(F) Whether the public safety professional or instructor self reported the misconduct;

(G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;

(H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor; **and**

(I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

(e) Initiation of Proceedings: Upon determination that the reason for denial or revocation is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared **and served on the public safety professional or instructor.**

(A) All contested case notices will be prepared in accordance with OAR 137-003-0001 of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015.

~~**(f) Contested Case Notice: The "Contested Case Notice" will be prepared in accordance with OAR 137-003-0001 of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department will have a copy of the notice served on the public safety professional or instructor.**~~

(B) In discretionary cases heard by a policy committee, the contested case notice will be served on the public safety professional or instructor prior to Board review. If the Board disapproves the policy committee's recommendation, the Department will withdraw the Contested Case Notice.

~~**(g-f)**~~ Response Time:

(A) A party who has been served with a "Contested Case Notice of Intent to Deny Certification" has 60 days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(B) A party who has been served with the "Contested Case Notice of Intent to Revoke Certification" has 20 days from the date of mailing or personal service of the notice in which to file with the Department a written request for hearing.

~~**(h g)**~~ Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying or revoking certification pursuant to OAR 137-003-0645.

(~~i~~ **h**) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(~~j~~ **i**) Proposed Order: The assigned Administrative Law Judge will prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

(~~k~~ **j**) Exceptions and Arguments: A party must file specific written exceptions and arguments with the Department no later than 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order.

(A) The Department may extend the time within which the exceptions and arguments must be filed upon a showing of good cause.

(B) When the exceptions and arguments are filed, the party making the exceptions and arguments must 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.

(~~l~~ **k**) Final Order:

(**A**) A final order will be issued pursuant to OAR 137-003-0070 if a public safety professional or instructor fails to file exceptions and arguments in a timely manner.

(B) Department-proposed amendments to the proposed order in a case that was originally heard by a policy committee must be considered and approved by the policy committee that originally reviewed the case before a final order is issued.

(~~m~~ **l**) Stipulated Order Revoking Certification: The Department may enter a stipulated order revoking the certification of a public safety professional or instructor upon the person's voluntary agreement to terminate an administrative proceeding to revoke a certification, or to relinquish a certification, under the terms and conditions outlined in the stipulated order.

ACTION ITEM 1: Determine whether to recommend to the Board filing the proposed language for OAR 259-008-0070 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend to the Board filing the proposed language for OAR 259-008-0070 with the Secretary of State as permanent rule if no comments are received.

ACTION ITEM 3: Determine whether there is a significant fiscal impact on small businesses.

Appendix J

Department of Public Safety Standards and Training Memo

Date:February 2, 2011
To:Telecommunications Policy Committee
From:Linsay Bassler
Rules Coordinator

Subject:OAR 259-008-0070 – Proposed Rule
Denial/Revocation

Background: For the purposes of denial and revocation standards for criminal justice public safety professionals, conviction of any crime requires DPSST review for either mandatory or discretionary denial or revocation of certification. Between 2005 and 2008 a workgroup of DPSST criminal justice constituents, supported by DPSST staff members, conducted a comprehensive review of denial and revocation standards and disqualifying crimes. The two-part review resulted in the lists of mandatory and discretionary disqualifying crimes currently found in OAR 259-008-0070.

Once the workgroup had defined five categories of discretionary disqualifying misconduct, DPSST's Legal Services Coordinator, Lorraine Anglemier, analyzed the discretionary disqualifying crimes to identify a presumptive category for the conviction, based on the elements of each crime. The workgroup reviewed and finalized those categories, which were included in the list of discretionary disqualifying crimes subsequently adopted within OAR 259-008-0070.

Issue: Since the time the current list was adopted into OAR, some issues have been identified that staff believe should be addressed through amendments to the current rules:

First, a recent ruling made by the Ninth Circuit Court declared ORS 167.054 (Furnishing Sexually Explicit Material to a Child) unconstitutional. This crime remains listed as a mandatory disqualifier because the crime remains in the Criminal Code. But we recommend adding a notation to guide staff and constituents regarding this crime.

Second, staff recommends adding three ORS chapters. Crimes in ORS Chapter 97 (Rights and Duties Relating to Cemeteries, Human Bodies and Anatomical Gifts); and Chapter 609 (Animal Control; Exotic Animals; Dealers) were overlooked in the original workgroup review process. The workgroup did review Chapter 830 (Small Watercraft) and recommend this chapter for inclusion in the discretionary list, but the associated crimes were not previously categorized and added to this list.

Similarly, the workgroup discussed crimes associated with violation of ORS 496-498. These chapters deal with the administration and enforcement of hunting, angling and wildlife regulations. In addition to the three specifically identified crimes (which are included in the current list), an individual may be convicted of a misdemeanor for violating any of the provisions of these chapters with a culpable mental state. The workgroup determined that these criminal

convictions should remain discretionary disqualifying convictions for the purposes of certification, to allow committee and Board review on a case-by-case basis. Although it is not practical to list every statute that may be violated, staff recommends replacing the current reference to three specific crimes with a broader reference to the relevant chapters in order to better inform our criminal justice constituents. The appropriate category would have to be determined on a case-by-case basis, when cases are brought to a policy committee for review.

The following revised language for OAR 259-008-0070 contains recommended additions (**bold and underlined**) and deletions (~~strikethrough text~~).

259-008-0070

Denial/Revocation

Grounds for Mandatory Denial or Revocation of Certification

Oregon Laws 2007, Chapter 869, Sec. 2 **167.054** (Furnishing sexually explicit material to a child),

* **the above listed statute has been declared unconstitutional by the Ninth Circuit Court.**

Discretionary Disqualifying Misconduct as Grounds for Denying or Revoking Certification

97.931 (Registration of Salesperson for Endowment Care Cemeteries, Preconstruction Sales and Prearrangement Sales) – Category V,

97.933 (Certification of Provider of Prearrangement or Preconstruction) – Category V,

97.937 (Deposit of Trust Funds made by Endowment Care Cemeteries) – Category V,

97.941 (Prearrangement or Preconstruction Trust Fund Deposits) – Category V

97.990(4) (Maintaining a Nuisance) – Category V

Chapter 496 – 498 (When treated as a misdemeanor crime) – Category based on the elements of the specific crime,

~~496.994 (Obstruction to the Taking of Wildlife) – Category V,~~

~~496.996 (Attempt to Take Wildlife Decoy) – Category V,~~

~~498.164 (Use of Dogs or Bait to hunt Black Bears or Cougars) – Category V,~~

609.341 (Permit Requirement for Keeping of Exotic Animals; Breeding of Animal – Category V,

609.405 (Requirement for Destroying Dogs and Cats) – Category V,

609.505 (Unlawfully Obtaining Dog or Cat) – Category V

609.520(c) (Animal Dealer Failing to Turn Over Dog or Cat) – Category V

609.805 (Misrepresentation of Pedigree; Mutilation of Certificate or Proof of Pedigree) – Category I

609.990(3)(a) (Violation of ORS 609.098 – Maintaining a Dangerous Dog) – Category IV

830.035(2) (Fleeing; Attempts to Elude) – Category IV,

830.053 (False or Fraudulent Report of Theft of Boat) – Category I,

830.315(1) (Reckless Operation) – Category IV,

830.325 (Operating a Boat while Under the Influence of Intoxicating Liquor or Controlled Substance) – Category IV,

830.383 (Person Required to Remedy Especially Hazardous Condition) – Category V,

830.460(2) (Prohibited Activities – Operating a Vessel that Fails to Comply with Equipment Requirements) – Category V,

830.460(3) (Prohibited Activities – Operating a Vessel without Liability Protection) – Category V,

830.475(1) (Failure to Perform the Duties of an Operator at Accident) – Category V,

830.730 (False Information) – Category I,

830.909 (Abandoning Boat, Floating Home or Boathouse) – Category V,

803.955(1) (Prohibition of Installation of Submersible Polystyrene Device) – Category V,

830.992 (Purchase of a Boat or Equipment from which Hull or Component Identification Number Removed) – Category V,

830.994 (Operates a Boat In Violation of a Court Order) – Category V

ACTION ITEM 1: Determine whether to recommend to the Board filing the proposed language for OAR 259-008-0070 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend to the Board filing the proposed language for OAR 259-008-0070 with the Secretary of State as permanent rule if no comments are received.

ACTION ITEM 3: Determine whether there is a significant fiscal impact on small businesses.

Appendix K

Department of Public Safety Standards and Training Memo

Date: February 2, 2011
To: Telecommunications Policy Committee
From: Lindsay Bassler
Rules Coordinator

Subject: OAD 259-008-0011 – Proposed Rule
Minimum Education Standards for Employment as a Telecommunicator/EMD

Issue: Currently, the minimum standards for employment as a telecommunicator/EMD require applicants to furnish documentary evidence of a high school diploma or GED. On rare occasions an applicant has completed post-secondary education but has not completed high school or received a GED. This rule update adds language allowing telecommunicator/EMD applicants to furnish documentary evidence of a four-year, post-secondary degree from an accredited college or university to satisfy the minimum education standard.

The following revised language for OAD 259-008-0011 contains recommended additions (**bold and underlined**) and deletions (~~strike through text~~).

259-008-0011

Minimum Standards for Employment as a Telecommunicator and Emergency Medical Dispatcher

(4) Education:

(a) Applicants for the position of a telecommunicator or emergency medical dispatcher will be required to furnish documentary evidence of one of the following:

(A) High School diploma; ~~or~~

(B) Successful completion of the General Educational Development (GED) Test; **or**

(C) A four-year, post-secondary degree issued by a degree-granting college or university accredited by a recognized national or regional accrediting body, or recognized by the Oregon Office of Degree Authorization under the provisions of ORS 348.604.

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

(b) Evidence of the above shall consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

ACTION ITEM 1: Determine whether to recommend to the Board filing the proposed language for OAR 259-008-0011 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend to the Board filing the proposed language for OAR 259-008-0011 with the Secretary of State as permanent rule if no comments are received.

ACTION ITEM 3: Determine whether there is a significant fiscal impact on small businesses.