

## **Department of Public Safety Standards and Training Memo**

**Date:** October 22, 2020

**To:** Board on Public Safety Standards and Training

**From:** Jennifer Howald  
Rules Coordinator

**Discipline:** Private Security Providers, Private Investigators and Polygraph Examiners

**Subject:** Proposed Rule Changes for OAR 259-060-0500, OAR 259-061-0010 and OAR 259-020-0220: Overpayment of Amounts Due

### **ISSUE:**

The Department collects fees for the private security provider, private investigator and polygraph examiner certification and licensure programs. It is not uncommon for the Department to receive a payment amount greater than the required fees. These are known as overpayments. Overpayments result in delays to certification and licensure processes with administrative and fiscal impacts for the Department and the applicant.

Currently, when the Department receives an overpayment, the overpayment is returned to the applicant unprocessed. The overpayments are returned because the processes to refund the overpaid amount cost the Department approximately \$40 per refund. While returning the overpayment prevents the Department from incurring additional costs, the resulting application deficiencies and repeated handling of the application create administrative inefficiencies for staff.

Returning the payment unprocessed requires applicants who are paying by business check, cashier's check or money order to recomplete the payment process. Obtaining a new business check may impact the business's accounting processes. Obtaining a new cashier's check or money order may impact the applicant by requiring additional time and transportation costs to access the service, fees for the service, and postage or transportation costs for resubmitting the payment to the Department. Returning the payment unprocessed also causes delays for issuing a certification or license which can adversely impact the applicant's ability to begin working.

ORS 293.445 provides agencies the ability to establish rules that specify a sum that requires a written request for issuance of a refund when the agency receives a payment in excess of the amount legally due.

To improve efficiency for processing applications for certifications and licenses, the Department recommends adopting rules to establish the following criteria for processing overpayments.

- Overpayment of the required fees by \$10.01 or more:
  - The overpayment is rejected and the form of payment is returned to the applicant unprocessed.
  - A new payment for the correct amount must be received before the Department can issue the certification or license.
  
- Overpayment of the required fees by \$10.00 or less:
  - The overpayment is accepted and the form of payment is processed.
  - The applicant may request a refund of the overpaid amount by submitting a written request.
  - On receipt of a written request, the Department will refund the sum that was more than the required fees. (Required fees are non-refundable.)

In addition to establishing criteria for processing overpayments, the following draft proposed rules include revisions for clarity and consistency. These rule revisions do not make any changes to existing fee amounts.

**DRAFT RULE LANGUAGE:**

The draft proposed rule changes for each rule are easier to read as a complete text replacement. For each rule, the proposed rule language is presented first followed by the current rule text for reference.

Draft Proposed Rule Text – Private Security:

**259-060-0500 Fees and Payments**

(1) Payments.

(a) The Department accepts business checks, money orders, cashier’s checks, and credit cards approved by the Department. Credit card payments may require submission of additional verification information as designated by the Department. The Department does not accept personal checks or cash.

(b) Fees for certification or licensure are due at the time of application.

(c) Amounts due to the Department for fees or penalties are non-refundable and non-transferable.

(d) Applicants who choose to withdraw their application or fail to complete the application process forfeit their application fees.

(2) The application fees charged by the Department for each 2-year private security provider certification and license are:

(a) Alarm Monitor Private Security Professional Certification - \$65;

(b) Armed Private Security Professional Certification - \$65;

- (c) Event and Entertainment Private Security Professional Certification - \$65;
  - (d) Unarmed Private Security Professional Certification - \$65;
  - (e) Alarm Monitor Private Security Instructor Certification - \$90;
  - (f) Unarmed Private Security Instructor Certification - \$90;
  - (g) Private Security Firearms Instructor Certification - \$90;
  - (h) Supervisory Manager License - \$75;
  - (i) Executive Manager License - \$250; and
  - (j) Fingerprint Criminal History Check Fee – The current fee for processing a fingerprint criminal history check may be obtained from the Department. This fee is to recover the costs of administering the fingerprint check through the Oregon State Police and the Federal Bureau of Investigation. This fee is separate from and does not apply to any fees charged by a fingerprinting services vendor. An additional fee will be charged for the third submittal of fingerprint cards when rejected for filing by the FBI.
- (3) Other administrative fees charged by the Department include:
- (a) Late Renewal Fee - \$25. A late fee is required when the Department receives an application for renewal after the expiration date;
  - (b) Non-sufficient Funds (NSF) Penalty Fee - \$25;
  - (c) Duplicate or Replacement Certification or License Fee - \$20;
  - (d) Armed Upgrade Fee - \$20. An armed upgrade adds the armed private security professional certification to the applicant’s existing two year certification period for the unarmed private security professional certification;
  - (e) DPSST Range Fee (Private Security Firearms Instructor Course). The current range fee may be obtained from the Department;
  - (f) DPSST Handgun Instructor Development Course Fee - The current course fee may be obtained from the Department; and
  - (g) Training Accreditation Fees. The accreditation process includes an application fee and an evaluation fee. The current accreditation process fees may be obtained from the Department.
- (4) If the Department receives payment of any fees or penalty by check and the check is returned to the Department as a non-sufficient funds (NSF) check, the payer of the fees or penalty will be assessed an NSF penalty fee in addition to the required payment of the fees or penalty.

(5) Overpayment of Amounts Due.

- (a) The Department will reject payments that include an overpayment of the amount due that is \$10.01 or more.
- (b) The Department may accept payments that include an overpayment of the amount due when the overpaid amount is \$10.00 or less.
- (c) Overpayment amounts that are \$10.00 or less will only be refunded upon receipt of a written request from the person who made the overpayment, or the person's legal representative. The written request must be received by the Department within three years of the overpayment.

Current Rule Text – Private Security:

**259-060-0500 License Fees**

- (1) Payments to the Department are non-refundable and non-transferable and must be paid by business check, money order, cashier's check or credit card. No personal checks or cash will be accepted.
- (2) The Department will charge the following fees:
  - (a) The fee of \$65 for the issuance of each two-year certification as a private security professional.
  - (b) Appropriate fees must be submitted with each application for a fingerprint criminal history check. These fees are to recover the costs of administering the fingerprint check through the Oregon State Police and Federal Bureau of Investigation. An additional fee will be charged for the third submittal of fingerprint cards when rejected for filing by FBI. Current fee schedules for processing fingerprints may be obtained from the Department.
  - (c) The fee of \$75 for the issuance of a two-year license as a supervisory manager.
  - (d) The fee of \$250 for the issuance of a two-year license as an executive manager.
  - (e) The fee of \$90 for the issuance of a two-year certification as a private security instructor.
  - (f) The fee of \$20 for the issuance of each upgrade, duplicate or replacement card issued.
  - (g) The late submission penalty fee of \$25 will be added to the fees for recertification if the provider fails to complete certification by the expiration date of the license or certificate.
  - (h) In the event a non-sufficient check is received for payment, an additional \$25 administrative fee will be assessed.

Draft Proposed Rule Text – Private Investigator:

**259-061-0010 Fees and Payments**

(1) Payments.

(a) The Department accepts business checks, money orders, cashier's checks, and credit cards approved by the Department. Credit card payments may require submission of additional verification information as designated by the Department. The Department does not accept personal checks or cash.

(b) Fees for licensure are due at the time of application.

(c) Amounts due to the Department for fees or penalties are non-refundable and non-transferable.

(d) Applicants who choose to withdraw their application or fail to complete the application process forfeit their application fees.

(2) Fees charged by the Department include:

(a) Private Investigator License Fee - \$550;

(b) Provisional Investigator License Fee - \$550;

(c) New Application Fee - \$29;

(d) Fingerprint Criminal History Check Fee - The current fee for processing a fingerprint criminal history check may be obtained from the Department. This fee is to recover the costs of administering the fingerprint check through the Oregon State Police and the Federal Bureau of Investigation. This fee is separate from and does not apply to any fees charged by a fingerprinting services vendor. An additional fee will be charged for the third submittal of fingerprint cards when rejected for filing by the FBI;

(e) Late Renewal Fee - \$25. A late fee is required when the Department receives an application for renewal after the expiration date;

(f) Duplicate or Replacement License Fee - \$20;

(g) Reactivation of Inactive License Fee (OAR 259-061-0160) - \$50; and

(h) Non-sufficient Funds (NSF) Penalty Fee - \$25.

(3) If the Department receives payment of any fees or penalty by check and the check is returned to the Department as a non-sufficient funds (NSF) check, the payer of the fees or penalty will be assessed an NSF penalty fee in addition to the required payment of the fees or penalty.

(4) Overpayment of Amounts Due.

- (a) The Department will reject payments that include an overpayment of the amount due that is \$10.01 or more.
- (b) The Department may accept payments that include an overpayment of the amount due when the overpaid amount is \$10.00 or less.
- (c) Overpayment amounts that are \$10.00 or less will only be refunded upon receipt of a written request from the person who made the overpayment, or the person's legal representative. The written request must be received by the Department within three years of the overpayment.

Current Rule Text – Private Investigator:

**259-061-0010 Fees**

- (1) Payments to the Department are due at the time of application. All payments are non-refundable and must be paid by business check, money order, cashier's check or credit card. No personal checks or cash will be accepted.
- (2) The Department will charge the following fees:
  - (a) The fee of \$79 for the application for licensure as a private investigator. This fee includes the cost of a criminal background check and private investigator examination;
  - (b) The fee of \$550 for the issuance of a two-year license as a private investigator;
  - (c) The fee of \$50 for application of reactivation from inactive status as described in OAR 259-061-0160;
  - (d) The fee of \$550 for the renewal of a two-year private investigator license;
  - (e) A late submission fee of \$25 will be added to the fees for licensure renewal if the private investigator fails to complete the application process by the expiration date of the license; and
  - (f) The fee of \$20 for the issuance of a duplicate or replacement card or license.
- (3) In the event a non-sufficient check is received for payment, an additional \$25 administrative fee will be assessed.

Draft Proposed Rule Text – Polygraph Examiner:

**259-020-0220 Fees and Payments**

(1) Payments.

(a) The Department accepts business checks, money orders, cashier's checks, and credit cards approved by the Department. Credit card payments may require submission of additional verification information as designated by the Department. The Department does not accept personal checks or cash.

(b) Fees for licensure are due at the time of application.

(c) Amounts due to the Department are non-refundable and non-transferable.

(d) Applicants who choose to withdraw their application or fail to complete the application process forfeit their application fees.

(2) Fees charged by the Department include:

(a) Polygraph Examiner License Fee - \$50;

(b) Polygraph Examiner Trainee License Fee - \$35;

(c) Examination for Licensure Fee - \$50;

(d) Fingerprint Criminal History Check Fee – The current fee for processing a fingerprint criminal history check may be obtained from the Department. This fee is to recover the costs of administering the fingerprint check through the Oregon State Police and the Federal Bureau of Investigation. This fee is separate from and does not apply to any fees charged by a fingerprinting services vendor. An additional fee will be charged for the third submittal of fingerprint cards when rejected for filing by the FBI;

(e) Duplicate or Replacement License Fee - \$5; and

(f) Non-sufficient Funds (NSF) Penalty Fee - \$25.

(3) If the Department receives a payment by check and the check is returned to the Department as a non-sufficient funds (NSF) check, the payer of the fees will be assessed an NSF penalty fee in addition to the required fees.

(4) Overpayment of Amounts Due.

(a) The Department will reject payments that include an overpayment of the amount due that is \$10.01 or more.

(b) The Department may accept payments that include an overpayment of the amount due when the overpaid amount is \$10.00 or less.

(c) Overpayment amounts that are \$10.00 or less will only be refunded upon receipt of a written request from the person who made the overpayment, or the person's legal representative. The written request must be received by the Department within three years of the overpayment.

Current Rule Text – Polygraph Examiner:

**259-020-0220 Fees**

(1) Payments to the Department are due at the time of application. All payments are non-refundable and must be paid by business check, money order, cashier's check or credit card. No personal checks or cash will be accepted.

(2) The Department will charge the following fees:

(a) The fee of \$50 for the issuance of each original license as a polygraph examiner.

(b) The fee of \$50 for the annual renewal of a license as a polygraph examiner.

(c) The fee of \$50 for examination by the Department for licensure as a polygraph examiner.

(d) The fee of \$35 for the issuance of a trainee license.

(e) The fee of \$35 for the annual renewal of a polygraph examiner trainee license.

(f) The fee of \$5 for the issuance of a duplicate license.

(g) Appropriate fees must be submitted with each application for licensure as polygraph examiner or as a trainee, pursuant to OAR 259-020-0170, for a fingerprint criminal records check. These fees are to recover the costs of administering the fingerprint check through the Oregon State Police and Federal Bureau of Investigation. An additional fee will be charged for the third submittal of fingerprint cards when rejected for filing by FBI. Current fee schedules for processing fingerprints may be obtained from the Department.

## **PROPOSED ADMINISTRATIVE RULE FISCAL & ECONOMIC IMPACT STATEMENT:**

These statements were submitted to the Secretary of State's Office when the rule changes were filed as a proposed rule for public comment.

### **1. Overall Fiscal and Economic Impacts.**

The Department collects fees for the private security provider, private investigator and polygraph examiner certification and licensure programs. The forms of payment that are accepted are business checks, cashier's checks, money orders and credit cards. It is not uncommon to receive a fee amount greater than the amount due (overpayment). Currently, the Department rejects and returns unprocessed any payment that includes an overpayment. This causes delays in the certification or licensure process. Returning the payment unprocessed requires applicants who are paying by business check, cashier's check or money order to recomplete the payment process. Obtaining a new business check may impact the business's accounting processes. Obtaining a new cashier's check or money order may impact the applicant by requiring additional time and transportation costs to access the service, fees for the service, and postage or transportation costs for resubmitting the payment to the Department.

These rule changes support Department process changes relating to overpayments allowing for more efficient processing of applications for certifications and licenses. Overpayments will be handled in accordance with the rule. If the overpayment amount is \$10.01 or more, the payment will be rejected and returned unprocessed to the payee for resubmission of the correct amount. If the overpayment amount is \$10.00 or less, the payment will be accepted and processed. The payee may request a refund of the overpaid amount by submitting a written request. The Department estimates that while the refund for a sum that is \$10.00 or less would require the applicant to submit a written request, the written request process would be less costly to the applicant than the time and costs associated with obtaining a new form of payment and resubmitting the payment to the Department.

The rule change for OAR 259-060-0500 (Private Security Fees) does not change any existing fee amounts. The rule change for OAR 259-060-0500 now includes the administrative fees for the training accreditation process, the range fee for the Private Security Firearms Instructor Course at DPSST, and the course fee for instructor applicants who choose to complete the DPSST Handgun Instructor Development Course. These administrative fees were in place prior to the rule change, but have not been listed in the rule before.

The rule change for OAR 259-061-0010 (Private Investigator Fees) divides the \$79 application fee into the two parts that the fee covers – processing the application and completing the fingerprint criminal history check. This change facilitates inclusion of the standard language the Department uses regarding the fingerprint criminal history check fee.

2. Identify Costs for Compliance with the Rule Change. Identify any state agencies, units of local government and members of the public likely to be economically affected by the rules. Identify impacts for small businesses.

There are no other state agencies or units of local government identified as likely to be economically affected by the rules.

The majority of individual private security providers or employers, businesses or entities that employ or utilize private security providers may be considered small businesses.

The majority of individual private investigators may be considered small businesses.

The majority of individual polygraph examiners may be considered small businesses.

There are no changes to the costs for compliance if the payee submits an overpayment greater than \$10.01. This overpayment will be rejected and the payee will be required to resubmit the correct amount.

For overpayments that are \$10.00 or less, the costs for compliance are expected to be equal to or less than past costs for compliance. The Department estimates that the process change to accept the overpayment will cost the applicant or payee less than the delayed issuance of the certification or license and the time, effort, and costs associated with resubmission of the correct payment amount.

**PRIVATE SECURITY AND INVESTIGATOR POLICY COMMITTEE  
RECOMMENDATION:**

On September 2, 2020, the Private Security and Investigator Policy Committee (PSIPC) reviewed the Department's recommended changes for processing overpayments for private security and private investigator certifications and licenses. The PSIPC voted unanimously to recommend that the Board approve filing the proposed rule changes for OAR 259-060-0500 and 259-061-0010 as permanent rules. By consensus, the PSIPC approved the fiscal impact statements included in the memo.

**DIRECTOR'S RECOMMENDATION:**

On September 8, 2020, Director Gabliks reviewed the Department's recommended changes for processing overpayments for polygraph examiner licenses. Director Gabliks approved filing the proposed rule changes for OAR 259-020-0220 and a recommendation to the Board to file the proposed changes as a permanent rule.

**DPSST STAFF UPDATE:**

These proposed rule changes were filed with the Secretary of State after Policy Committee and Director review. The opportunity for public comment ends October 21, 2020. As this memo was prepared prior to the end of the public comment period, if the Department receives public comment that impacts the substantive intent of the rule change, this item will be removed from the consent agenda for additional consideration.

**ACTION ITEM:**

Review and affirm the recommendation of the Department, the Private Security and Investigator Policy Committee and the Director.