

Criminal Justice Moral Fitness Workgroup

Agenda

June 5, 2024

2:00 p.m. to 4:00 p.m.

The DPSST Criminal Justice Moral Fitness Workgroup will meet at 2:00 PM on Wednesday, June 5, 2024, in Conference Room A235 at the Department of Public Safety Standards and Training located at 4190 Aumsville Hwy SE, Salem, Oregon. For further information, please contact Jennifer Howald at 503-551-3258 or jennifer.howald@dpsst.oregon.gov.

The meeting will be live streamed on the DPSST YouTube page:

<https://www.youtube.com/@DPSST>



Workgroup Members:

Shanon Anderson, OACP & PPC
Greg Armenta, Nyssa Police Department
Jessica Beach, OACCD
Angela Brandenburg, PPC
Mark Boren, Public Member CPC
Jim Coleman, Hillsboro Police Department
Mark Daniel, OACP & PPC
Carol Dishion, Prior BPSST/CPC/ARC
Lee Eby, Prior CPC

John Frost, CPC
Rhonda Griffin, TPC
Ty Hanlon, Sherwood Police Department
Andy Heider, OSP
Scotty Nowning, BPSST & PPC
Erica Stolhand, Hood River Sheriff's Office
Rob Wood, Public Member PPC
Les Youngbar, Public Member PSPIC & Prior
WG Member

Administrative Statement: This is a public meeting, subject to the public meeting law. This meeting is being streamed live on the DPSST YouTube page and will be recorded in the form of minutes. Discussion of issues will only be conducted by workgroup members. Please be mindful of comments and side conversations.

1. Introductions

2. Administrative Closure Criteria

Carried over from May 6 2024

3. Policy Committee Case Review Processes

Carried over from May 6, 2024

4. Applicant Review Committee

5. Follow-up on Pending Action Items or Discussions from Past Meetings

6. Next Workgroup Meeting: TBD

**Department of Public Safety Standards and Training
(DPSST or the Department)
Memo**

Date: May 6, 2024
To: Criminal Justice Moral Fitness Workgroup
From: DPSST Staff
Subject: Administrative Closure Criteria

Background:

Professional standards cases are opened when there are circumstances that require review of conduct (criminal disposition, separation, falsification, student dismissal). However, not every case that is opened results in a denial or revocation. If a case is opened but staff determine that there are no moral fitness violations (Dishonesty, Misuse of Authority, Misconduct), or there is insufficient evidence to support denying or revoking the certification, the case can be administratively closed.

The rules specify when DPSST can administratively close a professional standards case. To provide transparency in the administrative closure process, DPSST submits recommendations for administrative closures to the Policy Committees for approval. A Policy Committee that disagrees with a recommendation to administratively close a case can overturn the recommendation. If a recommendation is overturned, the case will be returned to staff so that it can be prepared as a case for the Policy Committee to review.

When a Policy Committee approves an administrative closure, that is the final level of review. The case is closed and it does not need to be submitted to the Board for approval. A case that is administratively closed results in no action against the public safety officer's certifications. The administrative closure process serves as a record that the conduct has been reviewed and it does not impact the public safety officer's eligibility for certification.

Discussion Items:

1. Administrative Closure of DUII Resulting in Dismissal. Rule states that DPSST will administratively close discretionary professional standards cases for deferred adjudications in which the only charge is for ORS 813.010 (Driving Under the Influence of Intoxicants) upon confirmation of dismissal.

Historically, before 2017, a DUII would initiate a case that staff would monitor until the criminal proceedings were completed. If the criminal process resulted in a conviction, the case would continue to be forwarded to the Policy Committee for review. If the criminal process resulted in a successfully completed diversion or dismissal, the case would be

administratively closed because there was no conviction. Under the rules in place prior to 2017 the Policy Committee only considered criminal cases that resulted in a conviction.

Then, in 2017, when discretionary grounds expanded from convictions to include criminal dispositions with a finding or plea of guilt, the Workgroup at that time recommended maintaining the administrative closure process for successfully completed DUII diversions.

Issue: The current rule language only allows for dismissed DUII charges to be administratively closed when the DUII is the only charge. Many DUII cases include additional charges that occur at the time of the DUII. Sometimes the other charges are also dismissed. Sometimes the other charges result in a criminal disposition. Based on current rules and practices if there are other charges, the case is sent to the Policy Committee for review even if the other charges were dismissed.

- This rule language refers to charges. Which charges should be used to determine if the DUII is eligible for administrative closure or subject to review for certification purposes – arresting officer’s charges, court charges, or either?
- Should DPSST administratively close DUII cases where there are additional charges, but all charges are dismissed?
- Should cases where the DUII is dismissed but other charges result in a criminal disposition be administratively closed or sent to the Policy Committee to review?

Issue: DPSST has the authority to open cases based on criminal dispositions or based on the conduct related to an arrest, a criminal citation to appear or its equivalent, or a criminal disposition (meaning the conduct that led to the arrest or charge is reviewable with or without a criminal disposition). The current rule says that DPSST will administratively close dismissed DUII cases. Because the rule directs DPSST to close the case, this can mean that conduct that would violate the Board’s moral fitness standards is not reviewed.

- What if DPSST finds egregious conduct within the DUII records? Should these cases still be administratively closed? (The DUII itself is Misconduct as a violation of criminal law and conduct that threatens or harms persons or property. Often a DUII can involve Dishonesty with regard to the amount of intoxicant consumed.)

2. Maximum Ineligibility Period Reached. There have been cases when a public safety officer has a criminal disposition or separation from employment that requires review by a Policy Committee but the maximum ineligibility period, which is currently ten years for conduct that did not include Dishonesty or Discriminatory Conduct, has already elapsed.

- Should DPSST recommend administrative closure when the maximum ineligibility period for the identified moral fitness violations has already passed?
3. Cases opened in error do not require an administrative closure. Rule is silent on how DPSST staff resolve a case that is opened in error. As an awareness, DPSST plans to establish a process for closing these cases and may suggest OAR changes to provide guidance for staff in the future.
 4. Are there any other circumstances where DPSST should administratively close a case without action? Potential scenarios:
 - If a public safety officer is deceased, then DPSST will administratively close the case.
 - If the conduct could be considered performance based, then DPSST may recommend administrative closure to a Policy Committee.
 - How should staff distinguish between performance and moral fitness?
Scenario: Cases involving a separation for employment based on policy violations. There was an investigation into the conduct at the time of separation. The conduct under investigation may constitute Misconduct due to the threat or harm to the efficient operations of the agency due to the policy violations, but the conduct may not be egregious or may lack intentional or knowing behavior.
 - If any other scenarios are identified, determine if DPSST is directed to administratively close the case or if DPSST needs to recommend administrative closure to a Policy Committee.
 5. Identify any additional Workgroup questions, concerns, or recommendations related to the administrative closure criteria and processes.

Relevant OAR and ORS:

259-008-0310 Denial/Revocation - Initiation and Review of a Professional Standards Case

(1) When the Department receives information from any source that a certifiable public safety professional or an applicant may not meet the established standards for public safety professionals, the Department will review the information to determine if substantial evidence exists to support denial, revocation or emergency suspension of certifications under the statutory and administrative rule requirements for public safety professional certification.

(4) The Department will administratively close discretionary professional standards cases for deferred adjudications in which the only charge is for ORS 813.010 (Driving Under the Influence of Intoxicants) upon confirmation of dismissal.

(5) The Department may recommend administrative closure of a discretionary professional standards case to a Policy Committee when the Department determines that the conduct being reviewed does not meet the statutory and administrative rule requirements for denial or revocation.

(6) When the Department recommends administrative closure of a discretionary professional standards case to a Policy Committee, the Policy Committee must either approve or overturn the Department's recommendation.

(a) When the Policy Committee approves the recommendation for administrative closure, the Department will administratively close the professional standards case.

(b) When the Policy Committee overturns the recommendation for administrative closure, the Department will prepare the case for a complete review by the Policy Committee pursuant to sections (9) and (10) of this rule.

OAR 259-008-0300 Grounds for Denial, Revocation or Emergency Suspension of Public Safety Professional Certifications

(4) The Department will not open a case on a criminal disposition or conduct that was previously reviewed by the Department, a Policy Committee or the Board and determined not to violate standards for public safety professional certification or resulted in no action to deny or revoke certification using the administrative rules in effect at the time of the review.

(a) Nothing in this rule precludes the Department from opening a case upon discovery of additional mandatory or discretionary grounds for denial or revocation.

(b) Nothing in this rule precludes the Department, a Policy Committee or the Board from considering previous criminal dispositions or conduct as an aggravating circumstance in a separate discretionary case review.

**Department of Public Safety Standards and Training
(DPSST or the Department)
Memo**

Date: May 6, 2024
To: Criminal Justice Moral Fitness Workgroup
From: DPSST Staff
Subject: **Policy Committee Case Review Processes**

Overview:

The Policy Committees review discretionary professional standards cases and DPSST recommendations for administrative closures.

Discretionary cases include conduct that violates the Board’s moral fitness standards, but when considered in totality with aggravating and mitigating circumstances, the conduct may or may not result in action to deny or revoke the public safety officer’s certification. Further, when there is action to deny or revoke certification there is discretion in determining the length of time that a person is ineligible to hold certification.

Administrative closure processes are for cases that are opened because of circumstances that require review of conduct (criminal disposition, separation, falsification, student dismissal) to determine if there are moral fitness violations (Dishonesty, Misuse of Authority, Misconduct), but the staff review did not identify a moral fitness violation or there was insufficient evidence to support denying or revoking the certification.

Administrative closure recommendations are submitted to the Policy Committees to affirm staff determinations and to maintain transparency in the administrative closure process. If a Policy Committee has concerns about an administrative closure recommendation, the Committee can overturn the recommendation. After a recommendation is overturned, DPSST will prepare a professional standards case for future Committee Review.

Discussion Items:

1. Affirm, Modify, or Negate: Rule states that the Policy Committee will review the professional standards case to affirm, modify, or negate the Department-identified moral fitness violations.

Generally, staff provide an overview of the case, the public safety officer has the opportunity to provide verbal mitigation, the Committee opens discussion about the case to include

discussion about the violations and identification of aggravating or mitigating circumstances. Then there is a motion and a vote to adopt the staff report.

These definitions provide some general interpretation for the current processes:

- Adoption of staff report means adoption of the records and exhibits as provided to the Committee for the Committee to use as the basis for discussion and action. The Committee did not request or require additional information to complete their review of the case.
- Affirming identified moral fitness violations means accepting the Department-identified violations as stated in the staff memo.
- Modifying identified moral fitness violations means making changes to the Department-identified violations.
- Negating identified moral fitness violations means the Committee determined that the conduct under review does not meet the definition of a moral fitness violation.

Issue 1: Adopting the staff report without any changes means that all of the moral fitness violations identified by staff become the violations recognized by the Committee for action. DPSST has been working to improve facilitation of this part of the process.

- Discussion: Identify questions, concerns, or recommendations related to facilitation of the Committee action to affirm, modify or negate the staff-identified moral fitness violations.

Issue 2: What happens to a case when all of the staff-identified moral fitness violations are negated?

- Should the case follow its original path to completion, which would be a recommendation to the Board that there are no moral fitness violations and no action? The Board could either approve the recommendation for no violation/no action or return the case back to the Committee with instructions on what to reconsider.
- Should the case result in an administrative closure as determined by the Committee with a motion and a vote? No further review or action taken, and the case does not go to the Board.
- Should the case be returned to staff to be resubmitted as an administrative closure? Results in a delay to the resolution of the case. The administrative closure would be submitted to the Committee for approval at its next quarterly meeting. After Committee approval of an administrative closure there is no further review or action taken, it does not go to the Board.

2. Aggravating and Mitigating Circumstances. Rule states the Policy Committee will review the professional standards case to identify aggravating and mitigating circumstances unique to

the professional standards case. Rule includes a definition for aggravating and mitigating circumstances. Rule does not require consideration of any specific circumstances in every case.

- Discussion: Identify questions, concerns, or recommendations related to identifying and considering aggravating and mitigating circumstances.
3. Submitted Mitigation. When a professional standards case is going to be presented to a Policy Committee for review, staff notify the public safety officer and provide them with the opportunity to submit written or verbal mitigation. When the public safety officer is notified, they are provided with a copy of the memo that staff prepared for the Committee outlining the DPSST-identified moral fitness violations and listing the exhibits, but the officer does not receive a copy of the exhibits. There are no limits on written mitigation. Verbal mitigation, when given, must be done in person and is limited to five minutes. In person includes remote participation. The Committee can't ask the public safety officer questions. It is important to note that mitigation is not fact checked or verified.
 - Discussion: Identify questions, concerns, or recommendations related to mitigation submitted by a public safety officer.
 4. Peer Review. Statute states that the Policy Committee in the relevant discipline and the Board shall review denials and revocations based on discretionary grounds. The relevant discipline has been interpreted as the discipline the public safety officer was employed in at the time the conduct occurred. For example, if the conduct occurred while employed as a police officer, the review would be through the Police Policy Committee.
 - Discussion: Identify questions, concerns, or recommendations.
 - Does the same interpretation apply when there has been a separation of employment and the person is hired in a different discipline? For example, if the conduct occurred while employed as a corrections officer but now the person is being hired as a telecommunicator.
 5. Identify any additional Workgroup questions, concerns, or recommendations related to the Policy Committee review processes.

Relevant OAR and ORS:

The following rules and statutes outline the procedures used to guide a Policy Committee review of a professional standards case.

259-008-0310 Denial/Revocation - Initiation and Review of a Professional Standards Case

(6) When the Department recommends administrative closure of a discretionary professional standards case to a Policy Committee, the Policy Committee must either approve or overturn the Department's recommendation.

(a) When the Policy Committee approves the recommendation for administrative closure, the Department will administratively close the professional standards case.

(b) When the Policy Committee overturns the recommendation for administrative closure, the Department will prepare the case for a complete review by the Policy Committee pursuant to sections (9) and (10) of this rule.

(9) When the Department submits a discretionary professional standards case to a Policy Committee, the Department will notify the public safety professional. The notification will include the deadlines for the public safety professional to provide evidence of factors that may support mitigation. A public safety professional may provide mitigation evidence by one or both of the following:

(a) Submitting documents or written statements as supporting evidence for mitigation of the conduct under review to the Department for Policy Committee and Board consideration.

(b) Arranging with the Department to attend a Policy Committee meeting and present a verbal statement. The verbal statement is limited to a maximum of five minutes and must be presented in person by the public safety professional or their representative.

(10) Policy Committee Review of Discretionary Professional Standards Cases.

(a) In professional standards cases where the Department has determined that the conduct being reviewed violates the moral fitness standards established by the Board as discretionary grounds for denial or revocation as defined in OAR 259-008-0300(3), the Department will submit its findings to a Policy Committee for disposition. The Policy Committee's disposition will be submitted as a recommendation to the Board for approval.

(b) The Policy Committee will review the professional standards case to:

(A) Affirm, modify or negate the Department-identified moral fitness violations;

(B) Identify aggravating and mitigating circumstances unique to the professional standards case;

(C) Determine how the moral fitness violations and aggravating or mitigating circumstances impact the public safety professional's fitness for certification; and

(D) When recommending denial or revocation of public safety professional certifications, determine how long the individual should be ineligible for certification.

(c) Aggravating and mitigating circumstances are conditions, factors or actions that increase or decrease the total impact that the identified moral fitness violation has on the public safety professional's fitness for certification.

(A) Aggravating circumstances generally increase the severity of the impact the moral fitness violation has on fitness for certification and may, in addition to the moral fitness violation, be grounds to deny or revoke certification. Aggravating circumstances may increase the recommended ineligibility period. Circumstances that may be considered aggravating include, but are not limited to, the degree of the criminal disposition, prior criminal dispositions or misconduct, lack of accountability, number of persons involved in the underlying conduct, number of separate incidents, passage of time from date of incident or incidents, or any other circumstance the Department or the Policy Committee consider aggravating given the specific issues in the case.

(B) Mitigating circumstances do not excuse or justify the conduct, but generally decrease the severity of the impact the moral fitness violation has on fitness for certification and may decrease the recommended ineligibility period. Circumstances that may be considered mitigating include, but are not limited to, written letters of support, truthfulness, cooperation during the incident or investigation, or any other circumstance the Department or the Policy Committee consider mitigating given the specific issues in the case.

(d) The ineligibility period is the timeframe that the public safety professional or applicant is ineligible for public safety certifications and prohibited from performing the duties of a certifiable public safety professional as the result of the total impact of the moral fitness violations and the aggravating and mitigating circumstances on the public safety professional's fitness for certification.

(A) When the identified moral fitness violations include Dishonesty or Misconduct that is discriminatory as defined in OAR 259-008-0300(3), the Policy Committee may recommend an ineligibility period from three years to lifetime.

(B) When the identified moral fitness violations do not include Dishonesty or Misconduct that is discriminatory as defined in OAR 259-008-0300(3), the Policy Committee may recommend an ineligibility period from three years to ten years.

(11) Board Review of a Professional Standards Case. The Board will review the professional standards case, aggravation and mitigation, and the Policy Committee's recommendations to determine whether or not to approve all or part of the Policy Committee's recommendations.

(a) Upon initial consideration, the Board may either approve the recommendation in its entirety or defer a decision and return the recommendation to the Policy Committee.

(b) The Board may approve the Policy Committee recommendation by a majority vote of the members present.

(c) The Board, by a majority vote of the members present, may defer its decision and return the recommendation with instructions to the Policy Committee to reconsider the recommendation. The Board may also instruct the Department to obtain further information and revise the case for a second review and recommendation by the Policy Committee. The Board may return a recommendation only once.

(A) The Policy Committee must reconsider its recommendation, along with the Board's instructions and any new information the Department submits to the Policy Committee.

(B) The Policy Committee will submit a revised or renewed recommendation to the Board.

(d) The Board will review the revised or renewed recommendation to decide whether to approve all or part of the recommendation. The Board may approve the recommendation by a majority vote of the members present and may disapprove the recommendation by a two-thirds vote of the total voting members. A failure to achieve a two-thirds vote to disapprove a recommendation will result in the approval of the recommendation.

(A) When the Board disapproves a recommendation that proposes no action be taken to deny or revoke certification, the Board must make its own determination as to whether the public safety professional has engaged in conduct that violates the discretionary grounds for denial or revocation of certifications. The Board's review of the case must follow the process for Policy Committee review as outlined in section (10) of this rule.

(B) The Board may identify their own findings or adopt all or any part of the Policy Committee's findings as the basis for the determination.

(C) If the Board review results in a determination to deny or revoke public safety professional certifications, the Department will issue a Notice of Intent pursuant to OAR 259-008-0340. Where the Board review results in no action to deny or revoke public safety professional certifications, the issued Notice of Intent will be withdrawn and the professional standards case will be closed.

ORS 181A.630 Procedure for denial, suspension or revocation of application or certification.

(1) When the Department of Public Safety Standards and Training, the Board on Public Safety Standards and Training or a policy committee of the board established under ORS 181A.375 believes there is a reasonable basis for denying, suspending or revoking, as applicable, the application or certification of an instructor or a public safety officer, except a youth correction officer, notice and opportunity for a hearing shall be provided in accordance with rules approved

by the board and in accordance with ORS 183.415 and 183.417 prior to denial, suspension or revocation.

(2)(a) Pursuant to rules adopted under ORS 181A.410 and 181A.640, the policy committee in the relevant discipline and the board shall review denials, suspensions and revocations based on discretionary grounds.

(b) If a policy committee votes to recommend denial or revocation of the application or certification of an instructor or a public safety officer pursuant to paragraph (a) of this subsection, the notice and opportunity for a hearing required under subsection (1) of this section shall be provided after the committee has voted and before the board considers the committee's recommendation.

(c) If the board disapproves the policy committee's recommendation under paragraph (b) of this subsection, the department shall withdraw the notice issued under subsection (1) of this section.

(d)(A) For cases originally considered by a policy committee, if the department proposes to amend an administrative law judge's proposed order issued in response to a request for a hearing by an instructor or a public safety officer under subsection (1) of this section, the committee shall consider the proposed amendment before the department may issue a final order pursuant to ORS 181A.410.

(B) The department's final order may not incorporate the proposed amendment unless the policy committee approves the amendment.

DPSST Criminal Justice Moral Fitness Workgroup
Minutes
June 5, 2024

The DPSST Criminal Justice Moral Fitness Workgroup met on June 5, 2024, in the Conference Room A235 at the Department of Public Safety Standards and Training located at 4190 Aumsville Hwy SE, Salem, Oregon. Jennifer Howald called the meeting to order at 2:00 P.M.

Workgroup Members Present:

Shanon Anderson, PPC
Angela Brandenburg, PPC
Mark Boren, CPC Public Member
Jim Coleman, Hillsboro PD
Mark Daniel, PPC
Carol Dishion, DOC and former
BPSST/CPC/ARC
Lee Eby, former CPC

John Frost, CPC
Rhonda Griffin, TPC
Andy Heider, OSP
Scotty Nowning, BPSST/PPC
Erica Stolhand, Hood River SO
Rob Wood, PPC Public Member
Les Youngbar, PSIPC

Workgroup Members Absent:

Greg Armenta, Nyssa Police Department
Jessica Beach, OACCD
Ty Hanlon, Sherwood Police Department

DPSST Staff:

Kathy McAlpine
Jennifer Howald
Kathy Fink
Cindy Park
Melissa Lang-Bacho
Jennifer Levario
Michelle Morrison

Administrative Note:

All workgroup decisions/discussions will be summarized in a recommendation to the appropriate policy committees and the Board on Public Safety Standards and Training. Decisions made in the Workgroup are not final until the Board has approved them, and if necessary, are effective in Oregon Administrative Rules.

1. Introductions

Meeting attendance was recorded by introduction of attendees around the room and announcement of the members and staff joining remotely by Teams.

2. Follow-up on Pending Action Items or Discussions from Past Meetings

This agenda item facilitates review of action items, unresolved discussions, and topics that need additional clarification. This will be an on-going agenda item.

Follow-up Topic #1, 10-Year Maximum Ineligibility Period. On May 5, 2024, the Workgroup affirmed that the 10-year maximum ineligibility period for discretionary cases involving Misuse of Authority or Misconduct continues to be an appropriate maximum limit. During a May Policy Committee meeting there was a case where the Committee members found that the conduct was more egregious and deserved more than a 10-year ineligibility period. Staff asked the Workgroup if there was a need to reconsider the 10-year maximum

ineligibility period. The Workgroup recommended consideration of increasing the maximum to 20 years. The discussion identified that it should be used for egregious conduct. The Workgroup discussed ways to ensure that the 20-year maximum was used on a limited basis. Possible conditions included specifying the egregiousness of the conduct or requiring a unanimous vote in support of a Committee recommendation for 20 years. There was recognition that in most cases a 20-year ineligibility period would be equivalent to a lifetime ineligibility period. The Workgroup recognized that the Committee is responsible for identifying the reasons why they are recommending the specific length of ineligibility and that the recommendation also goes through the Board approval process. Staff also reviewed past advice that tied the 10 years as a maximum ineligibility timeframe to convictions and national best practices for professional licensing bodies. If increasing the maximum period to 20 years, there may be a need to separate the ineligibility period range for criminal conduct from the ineligibility period range for professional conduct.

Action Item: DPSST will include the recommended changes to the maximum ineligibility period in the draft rule changes. The draft rule changes will be presented for additional Workgroup review and discussion in a future meeting.

Follow-up Topic #2, Ineligibility Start Date Correction. During the Workgroup meeting on May 5, 2024, staff incorrectly stated that there was a disparity in cases for separations and cases for criminal dispositions that occur while employed. Staff incorrectly stated that the ineligibility period starts from the date of the criminal disposition and there may be times when there is no separation from public safety service. It is accurate that a currently employed public safety professional can have a criminal disposition and remain employed while the case is under review. The correction is that the current rule language already results in an ineligibility period effective date that would be the Board approved date instead of the criminal disposition.

No Action Item.

3. Administrative Closure Criteria

Carried over from May 6, 2024.

Memo Discussion Item #1, Administrative Closure of DUUI Resulting in Dismissal. The rule states that DPSST will administratively close discretionary professional standards cases for deferred adjudications in which the only charge is for ORS 813.010 (Driving Under the Influence of Intoxicants) upon confirmation of dismissal. Staff provided an overview on the history of this administrative closure criteria. The rule directs DPSST to close these cases. This is completed administratively and does not require a recommendation for closure to the Policy Committee like other administrative closures. Staff stated that it is rare for a case to only have the one, single charge for DUUI. Most cases include additional charges that are dismissed or result in a criminal disposition. Staff asked the Workgroup if the criteria need to be changed to allow for administrative closure when there are other charges with the DUUI. Staff also provided a review of the 15 DUUI related cases that have been presented to the

Policy Committees since 2022. Five cases resulted in no action, 10 resulted in denial or revocation.

By consensus, the Workgroup determined that the current process to bring forward cases that have additional charges is working and does not need to be changed. Bringing the cases to the Committees recognizes the importance of reviewing the behavior, not just the outcome of the criminal dispositions, and that each case has a unique set of circumstances.

Staff asked if the current requirement to administratively close DUII diversion cases remained appropriate. In recognition that DPSST has the authority to take action on conduct related to an arrest or criminal citation to appear and that there may be times when there is egregious behavior, the Workgroup recommended changing the rule. The recommended change would remove the requirement for staff to administratively close these cases and allow staff the discretion to either recommend an administrative closure or submit a case to the Policy Committee for review based on the conduct that occurred.

Action Item: DPSST will include the recommended changes to the administrative closure authority for DUII cases in the draft rule changes. The draft rule changes will be presented for additional Workgroup review and discussion in a future meeting.

Staff also asked for clarity on what should be considered as a charge when trying to determine if the DUII is the only charge, arresting charges versus court charges. The Workgroup discussion emphasized using a broad interpretation of charge to include either the conduct the person is arrested for or the actual charges brought by the court. The Workgroup identified that each county may have differences in what arrests move forward through a court process and that it is important to review the conduct that resulted in an arrest regardless of the court outcome. The Workgroup identified that there may need to be a change to the language to properly address that police officers do not charge, they arrest for probable cause. In these cases, it would be that the DUII is the only offense for which the person is arrested or cited by the police officer.

Action Item: DPSST will review the current rule language and the previous recommendation to change these DUII cases to the process for recommending an administrative closure to determine if additional rule changes related to the use of the term “charge” are needed to carry out the intent as affirmed by the Workgroup.

Memo Discussion Item #2, Maximum Ineligibility Period Reached. The Workgroup recommended that cases where the 10-year maximum ineligibility period may already be met due to the passage of time should continue to be reviewed by the Policy Committees. The Workgroup found that there is value in reviewing the conduct and determining whether the conduct impacts certification. Completing the review and making a determination helps create a record and still allows the Committee to decide whether the moral fitness violations should result in a denial or revocation, whereas the administrative closure process means that there is no effect on the certification.

No Action Item.

Memo Discussion Item #3, Cases Opened in Error. Staff noted that sometimes cases are opened in error, but that there is nothing in the rules to address closing those cases. They don't need to follow the administrative closure process.

Action Item: Staff may suggest rule changes to help clarify what to do when a case is opened in error. The draft rule changes will be presented for additional Workgroup review and discussion in a future meeting.

Memo Discussion Item #4, Identifying Additional Administrative Closure Criteria. Staff identified that it would be beneficial to include language that would allow staff to administratively close a case when the public safety professional is deceased. Staff asked the Workgroup if there was a way to distinguish between misconduct and performance based issues. One possibility that was discussed was a way to distinguish between how something affects the public (unethical behavior, intentional or knowing conduct) versus how something affects the agency (tardiness, attendance, customer service). Overall, the Workgroup found that the staff's current practices are appropriate, affirming that when there is a question or potential for a moral fitness violation, the case should be forwarded to the Committee for review and determination.

No Action Item.

Memo Discussion Item #5, Any Other Questions or Discussion. There were no other Workgroup discussion topics identified relating to administrative closure processes.

No Action Item.

4. Policy Committee Case Review Processes

Carried over from May 6, 2024.

Memo Discussion Item #1, Affirm, Modify, or Negate Moral Fitness Violations.

Staff presented an overview of the current case presentation process and interpretations for the actions associated with affirming, modifying, or negating moral fitness violations. Staff noted that there have been recent changes implemented to clarify and facilitate the individual steps the Committee votes on. The Workgroup was invited to provide additional suggestions and feedback. The Workgroup acknowledged the changes and found they were improving the clarity of the process.

No Action Item.

Staff also asked for discussion on the outcome of a professional standards case when the Committee negates the identified moral fitness violations and determines that there are no moral fitness violations. The current rules are silent on whether or not these cases need to be approved by the Board. In the absence of a rule that provides clear direction, when the Policy Committee finds that there are no moral fitness violations, the case has been submitted to the Board with the Committee recommendation that there are no moral fitness violations and therefore the recommendation is to take no action against the certification. The Workgroup

recommended continuing and codifying the current process. This aligns with the authority of the Board to return a case back to the Committee for reconsideration.

Memo Discussion Items #2-5 were tabled for the next meeting.

5. Applicant Review Committee

This agenda item was tabled for the next meeting.

6. Meeting Close

The next meeting will be scheduled for August 2024. DPSST will share a scheduling poll to schedule the next meeting. The meeting concluded at 4:00 P.M.