



PERMANENT ADMINISTRATIVE ORDER

DPSST 17-2020
CHAPTER 259
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Adopting provisions for DPSST discretion regarding maintenance and other standards affected by COVID-19 issues.

EFFECTIVE DATE: 09/15/2020

AGENCY APPROVED DATE: 08/24/2020

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ADOPT: 259-008-0001

NOTICE FILED DATE: 07/23/2020

RULE SUMMARY: This rule is adopted to address Board standards that are affected by ongoing issues related to COVID-19. The rule directs the Department to exercise discretion where permissible through statute and rule. The rule includes expiration dates for the discretionary authority.

The following statements include some of the intended outcomes identified to date for the authority provided in the rule language.

- Public Safety Professional Physical Standards. OAR states that the medical examination (F2 and F2T) must be submitted within 90 days after the start of employment and that prior to admittance in a basic training course, an applicant must demonstrate the physical abilities to perform the critical and essential tasks for the discipline. During the COVID-19 emergency, access to occupational medical examinations was delayed and during these unprecedented times, access may be delayed again.

To date, the Department addressed the inability for an employer to submit a completed medical examination within the first 90 days of employment by using the secondary requirement that the medical examination be complete prior to beginning the basic training course. The Department would continue to apply this discretion as needed.

- Training and Certification Time Extensions. ORS requires corrections officers and police officers to begin basic training within 90 days of employment. ORS also specifies that when the delay in access to basic training is caused by the Department's inability, for any reason, to provide the training, the period of the delay may not be counted as a part of that requirement.

The suspension of academy training courses will also affect public safety professional certification timelines. ORS requires certification within 12 months for corrections officers and within 18 months for all other public safety professionals. ORS allows an employer to request a time extension and upon finding good cause, the Department may approve a time extension for up to one year.

The Department anticipates that there may be cases where an employer needs to utilize the time extension process outlined in ORS and the Department's suspension of academy training erodes the one year time allotment provided by

ORS. To address this, the Department would exercise discretion as needed to account for the period of time that the academy was closed and not hold the employer harmed when establishing the approved extension date. This may result in authorizing additional time when approving the time extension.

- Maintenance Requirements for Certified Public Safety Professionals. Based on the intent of the temporary rules OAR 259-008-0064 and 259-008-0065, the Department deferred suspending public safety professional certifications for the remainder of this calendar year. This deferment did not eliminate or waive the maintenance requirements. Each public safety professional is still required to satisfy the maintenance requirements.

First, the new rule bridges the time gap between the September expiration of the temporary rules and the Department's intent not to exercise the suspend authority for maintenance requirements not met during the 2020 calendar year due to COVID-19.

Second, the impact of COVID-19 on access to maintenance training may last beyond the initial emergency orders in the form of budget cuts and efforts to maintain safe practices. To address this, the Department would exercise discretion to determine if the use of the suspension process needed to be postponed beyond December 31, 2020, on a case by case basis.

CHANGES TO RULE:

259-008-0001

Board and Department Policies for the Impacts of COVID-19

In recognition of the statewide impacts of COVID-19, the Board authorizes the Department to exercise the following discretion in its enforcement of certification and maintenance standards for public safety professionals.¶

(1) The Department may approve exceptions to the timelines for completion and submission of employment, training and certification documentation or standards where permissible by statute and rule. This authority expires on December 31, 2021.¶

(2) The Department may include additional time that accounts for periods of Oregon Public Safety Academy closure or restricted availability due to COVID-19 when approving a public or private safety agency's request for a time extension to complete a public safety professional's training and certification. This authority expires on December 31, 2021.¶

(3) The Department may suspend enforcement of certification maintenance standards upon a finding that the public safety professional's ability to comply with the maintenance requirements was impacted by COVID-19. This authority expires on December 31, 2022.¶

(4) In the event additional issues arise due to COVID-19, the Department may use discretion as needed and where permissible by statute and rule to balance compliance of the Board's minimum standards with state and federal COVID-19 requirements. This authority expires on December 31, 2021.

Statutory/Other Authority: ORS 181A.410

Statutes/Other Implemented: ORS 181A.410