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## PERMANENT ADMINISTRATIVE ORDER

### DPSST 17-2021

CHAPTER 259  
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

**FILED**

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& LEGISLATIVE COUNSEL

FILING CAPTION: Amending OAR definitions based on 2021 legislative changes (SB 41, SB 297, and HB 2111).

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AMEND: 259-008-0005

NOTICE FILED DATE: 07/22/2021

RULE SUMMARY: OAR 259-008-0005 includes the definitions that are used for the interpretation of the criminal justice public safety professional administrative rules found in OAR chapter 259 division 8. This rule includes definitions that are found in ORS 181A.355 as well as other definitions adopted by the Board on Public Safety Standards and Training (BPSST).

This rule change updates OAR 259-008-0005 to align the rule with the statutory changes that occurred during the 2021 legislative session. The rule changes also include housekeeping amendments for punctuation, ORS references, and past legislative changes.

The 2021 Legislative Changes to ORS 181A.355:

House Bill 2111: Relating to the Oregon Liquor and Cannabis Commission. This bill changed the name of the Oregon Liquor Control Commission to the Oregon Liquor and Cannabis Commission. The bill did not have any impact on the BPSST or DPSST. HB 2111 is effective August 2, 2021.

Senate Bill 297: Relating to judicial marshals. This bill included a conforming amendment to the agency title for the Marshal's Office of the Judicial Department. The bill did not have any impact on the BPSST or DPSST. SB 297 is effective September 25, 2021.

Senate Bill 41: Relating to employees of the State Board of Parole and Post-Prison Supervision. This bill amended the definition of "parole and probation officer" to include an officer who is certified as a parole and probation officer and is

employed full-time by the State Board of Parole and Post-Prison Supervision (BPPPS). Inclusion in the definition of parole and probation officer means these individuals will continue to be recognized as parole and probation officers and remain certified. SB 41 is effective June 15, 2021.

CHANGES TO RULE:

259-008-0005

Definitions ¶¶

- (1) "Armed Parole and Probation Officer" means a parole and probation officer who is authorized by the employing public safety agency to carry a firearm while engaged in official duties.¶¶
- (2) "Assistant Department Head" means a public safety officer employed in the first position subordinate to a Department Head who is primarily responsible for supervision of middle managers and supervisors.¶¶
- (3) "Board" means the Board on Public Safety Standards and Training.¶¶
- (4) "Casual employment" means employment that is occasional, irregular, or incidental for which the employee does not receive seniority rights or fringe benefits.¶¶
- (5) "Certified Reserve Officer" means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181A.410.¶¶
- (6) "Commissioned" means being authorized to perform various acts or duties of a police officer, certified reserve officer or reserve officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.¶¶
- (7) "Community College" means a public institution operated by a community college district for the purpose of providing courses of study limited to not more than two years full-time attendance and designed to meet the needs of a geographical area by providing educational services, including, but not limited to, vocational or technical education programs or lower division collegiate programs.¶¶
- (8) "Corrections Officer" means an officer or member employed full-time by a law enforcement unit who:¶¶
  - (a) Is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles;¶¶
  - (b) Has been certified as a corrections officer described in paragraph (a) of this subsection and has supervisory or management authority for corrections officers as described in paragraph (a) of this subsections; or¶¶
  - (c) Is any full-time employee of the Department who possesses the requisite qualifications and is so certified pursuant to ORS 181A.570.¶¶
- (9) "Criminal Disposition" means a conviction, violation, adjudication, civil compromise, an entered plea of guilty or no contest, or a finding of guilty except for insanity or its equivalent for any violation of a criminal law under the law of the jurisdiction where the criminal disposition occurred.¶¶
- (10) "Department" and "DPSST" means the Department of Public Safety Standards and Training.¶¶
- (11) "Department Head" means the chief of police, sheriff, superintendent or chief executive of a law enforcement unit or a public or private safety agency directly responsible for the administration of that unit or agency.¶¶
- (12) "Director" means the Director of the Department of Public Safety Standards and Training.¶¶
- (13) "Educational Credits" are credits earned for studies satisfactorily completed at an accredited post-secondary education institution recognized under OAR 259-008-0045.¶¶
- (14) "Emergency Medical Dispatcher" means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.¶¶
- (15) "First-Level Supervisor" means a public safety officer employed in a position between the operational level and the middle manager, who is primarily responsible for the direct supervision of subordinates. A first level supervisor position does not include a position with limited or acting supervisory responsibilities.¶¶
- (16) "Full-time employment" means the employment of a person who has the responsibility for, and is paid to perform the duties of a public safety professional for more than 80 hours per month for a period of more than 90

consecutive calendar days. For purposes of this rule, any employment that meets the definition of seasonal, casual, or temporary employment is not considered full-time employment as a public safety professional.¶

(17) "High School" is a school accredited as a high school by the Oregon Department of Education, a school accredited as a high school by the recognized regional accrediting body, or a school accredited as a high school by the state university of the state in which the high school is located.¶

(18) "Jurisdiction" means any tribunal with authority to render a criminal disposition, including but not limited to municipal, state, federal including military, tribal tribunals, and any tribunal outside the United States or a United States owned territory where a criminal offense must be proven beyond a reasonable doubt. ¶

(19) "Law Enforcement Officers" means police, corrections, parole and probation officers and regulatory specialists as described in the Public Safety Standards and Training Act.¶

(20) "Law Enforcement Unit" means:¶

(a) A police force or organization of the state, a city, university that has established a police department under ORS 352.383121 or 353.125, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal governments as defined in ~~section 1, chapter 644, Oregon Laws 2011,~~ ORS 181A.680 that employs authorized tribal police officers as defined in ~~section 1, chapter 644, Oregon Laws 2011~~ ORS 181A.680, the Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, the ~~Security and Emergency Preparedness~~ Marshal's Office of the Judicial Department or common carrier railroad the primary duty of which, as prescribed by law, ordinance, or directive, is any one or more of the following:¶

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;¶

(B) The custody, control, or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; or¶

(C) The control, supervision, and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation;¶

(b) A police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area the employees of which are commissioned by a county sheriff;¶

(c) A district attorney's office;¶

(d) The Oregon Liquor ~~Control~~ and Cannabis Commission with regard to regulatory specialists; or¶

(e) A humane investigation agency as defined in ORS 181A.340.¶

(21) "Leave" means an authorized absence granted to a public safety professional by their employing public or private safety agency.¶

(22) "Limited Duration, Administrative Position" means a non-elected, certifiable public safety position where the primary duties relate to the administration, operation, and accountability of a public safety agency, including, but not limited to, the responsibility for command assignments and the supervision of subordinate managers.¶

(a) Primary duties are regular or recurring supervisory or managerial duties that are performed in a continuous manner and are the foundation of a limited duration, administrative position.¶

(b) Non-supervisory or non-managerial public safety duties, such as patrol, criminal investigations, or enforcement actions are not primary duties of a limited duration, administrative position.¶

(23) "Middle Manager" means a public safety officer working in a position that is between a first-level supervisor and a department head, who is primarily responsible for management and command duties. A middle manager position does not include a position with limited or acting middle management duties.¶

(24) "Multi-disciplined Officer" or "Multi-discipline Certified" means a law enforcement officer, telecommunicator or emergency medical dispatcher who is employed by one public safety agency in more than one discipline for employment and certification purposes that support the efficient operation of the employing agency.¶

(25) "Part-time Employment" means the employment of a person who has the responsibility for, and is paid to perform the duties of a public safety professional for 80 hours or less per month for a period of more than 90 consecutive calendar days.¶

(26) "Parole and Probation Officer" means:¶

(a) An officer who is employed full-time by the Department of Corrections, a county or a court and who is charged with and performs the duty of:¶

(A) Community protection by controlling, investigating, supervising, and providing or making referrals to reformatory services for adult parolees or probationers or offenders on post-prison supervision; or¶

(B) Investigating adult offenders on parole or probation or being considered for parole or probation; or¶

(b) Any officer who:¶

(A) Is certified and has been employed as a full-time parole and probation officer for more than one year;¶

(B) Is employed part-time by the Department of Corrections, a county or a court; and¶

(C) Is charged with and performs the duty of:¶

(i) Community protection by controlling, investigating, supervising, and providing or making referrals to reformatory services for adult parolees or probationers or offenders on post-prison supervision; or¶

(ii) Investigating adult offenders on parole or probation or being considered for parole or probation;¶

(c) An officer who is certified as a parole and probation officer and is employed full-time by the State Board of Parole and Post-Prison Supervision; or¶

(ed) A full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181A.570.¶

(27) "Police Officer" means:¶

(a) An officer, member or employee of a law enforcement unit employed full-time as a peace officer who is:¶

(A) Commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in ~~section 1, chapter 644, Oregon Laws 2011~~ ORS 181A.680, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383 ~~121~~ or 353.125, the Governor or the Department of State Police; and¶

(B) Responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security;¶

(b) An investigator of a district attorney's office if the investigator is or has been certified as a peace officer in this or another state;¶

~~(c) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011;¶~~

~~(d) A humane special agent commissioned under ORS 181A.340;¶~~

(ed) A judicial marshal appointed under ORS 1.177 who is trained pursuant to ORS 181A.540;¶

(e) An authorized tribal police officer as defined in ORS 181A.680; or¶

(f) Any full-time employee of the Department who possesses the requisite qualifications and is so certified pursuant to ORS 181A.570.¶

(28) "Primary Discipline" means the discipline specified by the employing agency as the discipline that a public safety officer is assigned to for the majority of their employment functions or duties when a public safety officer is employed and certified as a multi-disciplined officer.¶

(29) "Public or private safety agency" means:¶

(a) A law enforcement unit; or¶

(b) A unit of state or local government, a special purpose district or a private firm that provides, or has authority to provide, police, ambulance or emergency medical services.¶

(30) "Public Safety Professional", "Public Safety Personnel" and "Public Safety Officer" include corrections officers, emergency medical dispatchers, parole and probation officers, police officers, certified reserve officers, reserve officers, telecommunicators and regulatory specialists.¶

(31) "Regulations" mean written directives established by the Department or its designated staff describing training activities and student procedures at the Oregon Public Safety Academy.¶

(32) "Regulatory Specialist" means a full-time employee of the Oregon Liquor ~~Control~~ and Cannabis Commission (OLCC) who is authorized to act as an agent of the OLCC in conducting inspections or investigations, making arrests and seizures, aiding in prosecutions for offenses, issuing citations for violations and otherwise enforcing ORS Chapter 471, ORS 474.005 to 474.095 and 474.11, 474.115, 475B.010 to 475B.545, 475B.550 to 475B.590

and 475B.600 to 475B.655, OLCC rules and any other statutes the OLCC considers related to ~~alcoholic liquor or marijuana~~ regulating liquor, marijuana or marijuana-derived products.¶

(33) "Reimbursement" is the money allocated from the Police Standards and Training Account, established by ORS 181A.665, to a law enforcement unit meeting the requirements of these regulations to defray the costs of officer salaries, relief duty assignments, and other expenses incurred while officers attend approved training courses certified by the Department.¶

(34) "Reserve Officer" means an officer or member of a law enforcement unit who is:¶

(a) A volunteer or employed less than full time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, tribal government as defined in ~~section 1, chapter 644, Oregon Laws 2011~~ ORS 181A.680, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, a university that has established a police department under ORS 352.383-121 or 353.125, the Governor; or the Department of State Police;¶

(b) Armed with a firearm; and¶

(c) Responsible for enforcing the criminal laws and traffic laws of this state or laws or ordinances relating to airport security.¶

(35) "Seasonal Employment" means employment that can be carried on only at certain seasons or fairly definite portions of the year, with defined starting and ending dates based on a seasonally determined need.¶

(36) "Staff" means those employees occupying full-time, part-time, or temporary positions with the Department.¶

(37) "Telecommunicator" means:¶

(a) A person employed as an emergency telecommunication worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 the emergency reporting communications system as defined in ORS 403.105; or¶

(b) A full-time employee of the Department who possesses the requisite qualifications and is so certified pursuant to ORS 181A.570.¶

(38) "Temporary employment" means employment that lasts no more than 90 consecutive calendar days and is not permanent.¶

(39) "The Act" refers to the Public Safety Standards and Training Act (ORS 181A.355 to 181A.670).¶

(40) "Waiver" means to refrain from pressing or enforcing a rule.

Statutory/Other Authority: ORS 181A.410

Statutes/Other Implemented: ORS 181A.410