



## PERMANENT ADMINISTRATIVE ORDER

**DPSST 18-2020**  
CHAPTER 259  
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

**FILED**  
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ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Amends appeal process for student dismissal. Amends process initiating professional standards review.

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AMEND: 259-012-0035

NOTICE FILED DATE: 07/23/2020

RULE SUMMARY: OAR 259-012-0035 outlines the processes for a student's dismissal from the Oregon Public Safety Academy, the appeal process for a dismissal and the initiation of the subsequent professional standards discretionary moral fitness review of the misconduct.

This rule change amended the appeal process by deleting the option for the employing agency to appeal the dismissal through the Board. This process change maintains the distinction between the Department's authority to dismiss the student when the student engages in misconduct at the Academy and the Board's authority to determine whether the misconduct requires denial or revocation of certification.

This rule change also amended the process for initiation of a professional standards discretionary moral fitness review of the misconduct. The changes result in completion of the professional standards review regardless of the certification or employment status of the dismissed student. Upon dismissal, DPSST certification compliance staff will prepare a case for policy committee review. The case review will follow the standards and processes for denial and revocation found in OAR 259-008-0300 through 259-008-0340.

CHANGES TO RULE:

259-012-0035

Student Suspension or Dismissal from a Mandated Training Course ¶¶

- (1) Student violations and allegations of student violations of the standards of conduct defined in OAR 259-012-0010 will be reviewed and investigated by the Department.¶¶
- (2) Upon initiation of any investigation involving a potential violation of the standards of conduct, the Department

will notify the student's employing agency.¶

(3) Upon completion of the investigation, the Department will issue a final report. The report will be forwarded to the affected student and their employing agency.¶

(4) Suspension. The Department may immediately suspend a student from a mandated training course when a situation requires immediate action to preserve the integrity or safety of the classroom or training venue.¶

~~(a) When a student has been suspended from a mandated training course, the suspension will remain in effect until a review and investigation has been completed pursuant to section (3).¶~~

~~(b) The period of suspension will be considered an unexcused absence from the mandated training course.¶~~

(5) Dismissal. The Department may dismiss a student upon completion of an investigation pursuant to section (3) that substantiates a violation of the standards of conduct defined in OAR 259-012-0010. The Department may dismiss a student from the Academy regardless of the student's current enrollment or employment status.¶

~~(6) Students who have been dismissed from a mandated training course will not receive credit toward the completion of their mandated training course and the Department will not recognize any portion of the mandated training course that was completed by the student prior to their dismissal as satisfying the minimum standards for training and certification.¶~~

~~(7) Initiation of a Professional Standards Case.¶~~

~~(a) When a student is dismissed, the Department will prepare and serve the affected person with a Notice of Intent to Deny their application for training in accordance with the applicable provisions of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. A party who has been served with a Contested Case Notice of Intent to Deny has 60 days from the date of the mailed or personal service of the Notice in which to file a written request for a hearing with the Department.¶~~

~~(b) Subsequent applications for training submitted by a student who was previously dismissed from a mandated training course will be Pursuant to OAR 259-008-0300(3)(b)(D), dismissal is conduct subject to discretionary review for denial of training and certification. When a student is dismissed, the Department will open a professional standards case for discretionary review in accordance with the applicable provisions of OAR chapter 259 division 8. The professional standards case reviewed pursuant to the denial, suspension and revocation rules established in OAR chapter 259 division 8.¶~~

~~(c) When a student has been dismissed from a mandated training course and the affected person has not been issued a certification by the Department, the affected person will remain ineligible to attend or be enrolled in a mandated training course until a determination has been made pursuant to applicable provisions of OAR chapter 259 division 8 regarding the person's ability to meet the moral fitness standard and, when requested, any subsequent contested case proceedings have concluded.¶~~

~~(d) When a student has been dismissed from a mandated training course and the affected person holds a Department issued certification, the conduct that lead to the dismissal makes the affected person's certifications subject to review pursuant to the denial, suspension and revocation rules established in OAR chapter 259 division 8.¶~~

~~(8) Appeal of a Dismissal by a Student. A student who has been dismissed from a mandated training course may appeal their dismissal by requesting a meeting training and certification prior to scheduling the student for any additional mandated training.¶~~

~~(7) The student may appeal the dismissal through the Director by submitting a written request within 20 days of the dismissal. The request for appeal may include with the Director to present mitigation on and their behalf.¶~~

~~(a) The request for an appeal must be submitted to the Director no later than 20 days following the dismissal student may request to present mitigation to the Director in person.¶~~

~~(b) The Director may appoint a, or an authorized designee to, will review the student's request for appeal.¶~~

~~(c) In making a determination regarding the student's dismissal, the Director, or authorized designee, will and consider the student's conduct, the facts identified in the final investigation report and any mitigation provided.¶~~

~~(d) If, upon review of the student's appeal, the Director, or authorized designee, to determine whether to uphold or overturns the student's dismissal, then:¶~~

- (A) ~~The Department will withdraw dismissal. If the dismissal its Contested Case Notice of Intent to Deny;~~
- (B) ~~The student will be eligible to re-apply for training; and~~
- (C) ~~If upheld, the dismissal is final. If the dismissal is overturned, the Department determines that the effectiveness of the mandated training course would not be compromised, the student may be allowed to complete the remainder of the mandated training course in lieu of starting the mandated training course anew. Any course completion or remediation will be scheduled as determined by the Department.~~
- (9) ~~Appeal of a Dismissal by an Employer. If the Director, or authorized designee, upholds the student's dismissal, the student's employer may submit an appeal of the Director's decision to the Board, through the discipline specific Policy Committee.~~
  - (a) ~~The employer's request to appeal the Director's decision must be submitted to the Board within 30 days of the Director's decision to uphold a dismissal. The request must be in writing and state the employer's reason for disagreeing with the dismissal.~~
  - (b) ~~If the student's employer does not appeal the student's dismissal within 30 days of the dismissal then the dismissal is final.~~
  - (c) ~~If, upon review of the employer's request for appeal, the Board upholds the student's dismissal then the dismissal is final.~~
  - (d) ~~If, upon review of the employer's request for appeal, the Board overturns the student's dismissal;~~
- (A) ~~The Department will withdraw its Contested Case Notice of Intent to Deny;~~
- (B) ~~The student will be eligible to re-apply for training; and~~
- (C) ~~If the Department determines that the effectiveness of the mandated training course would not be compromised, the student may be allowed to complete the remainder of the mandated training course will close the professional standards case and the student may be scheduled for training. Any course completion or remediation will be scheduled as determined by the Department.~~
- (9) ~~Students who have been dismissed from a mandated training course will not receive credit toward completion of the mandated training course and the Department will not recognize any portion of the mandated training course that was completed by the student prior to the dismissal as satisfying the min-lieu of starting the mandated training course anew. Any course completion or remediation will be scheduled as determined by the Department inum standards for training and certification.~~

Statutory/Other Authority: ORS 181A.410  
 Statutes/Other Implemented: ORS 181A.410