

OREGON DPSST  
*ETHICS BULLETIN*

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The Board on Public Safety Standards and Training (BPSST) has the legislative mandate to establish and enforce the physical, mental, and moral fitness standards for all law enforcement officers, telecommunicators and emergency medical dispatchers in the state.

This requirement also defines the procedure for the Department and Board to use when denying or revoking certification of an officer, telecommunicator or emergency medical dispatcher who has fallen below the moral fitness standards.

The Ethics Bulletin is published to provide insight into the types of misconduct that could result in revocation or denial of certification. The following cases of misconduct resulted in **revocation and denial** of certifications by DPSST in **July 2004**.

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**Case 1**

**Officer A** was convicted of Resisting Arrest after he was the subject of a disturbance, left on foot when the officers arrived and disregarded the officers' orders to stop. When the officers approached Officer A, he squared off into a fighting stance and physically resisted when being taken into custody. Resisting Arrest is a mandatory disqualifying crime for which there is no discretion. Officer A's conduct ended his 8-year career.

**Officer A's Basic Corrections Certification was Revoked.**

**Case 2**

**Officer B** resigned and was shortly thereafter convicted of Burglary in the First Degree and Attempted Sexual Assault in the First Degree. Officer B entered the home of a co-worker while the co-worker was on duty, crawled into bed with the co-worker's wife and attempted to sexually assault her. The co-worker's wife awoke and initially did not realize it was not her husband until she turned on the light. The victim called her husband at work and then the police were called. Officer B's conduct ended his 7-year career.

**Officer B's Basic Corrections certification was Revoked.**

**Case 3**

**Officer C** was employed and sent to the Academy prior to discovery and verification of a Theft in the Second Degree conviction, a mandatory disqualifying conviction. The conviction was verified and Officer C was removed from the Academy on her first day of training.

Officer C's prior conduct prevented her from entering the Oregon public safety field.

**Officer C was not certifiable, therefore was denied training.**

#### **Case 4**

**Officer D** was discharged for cause after he repeatedly failed to follow agency policies. Officer D was in a management position and he failed to follow up on incidents such as the escape of two dangerous inmates and a report of contraband being smuggled into the jail. Officer D failed to properly oversee the jail money box, and allowed evidence, inmate property and unattended weapons to lie about the office. Officer D's conduct ended his 9-year career. **Officer D's Basic Police certification was Revoked.**

#### **Case 5**

**Officer E** was discharged for cause after an internal investigation revealed that she was engaged in an inappropriate relationship with a supervised offender who had recently been released from the institution where she worked. When asked by her employer if she had contact with the offender, Officer E wrote a memorandum denying her involvement with him. After Officer E was given a direct order to have no further contact with the offender, the parole officer and local law enforcement authorities verified continued contact between she and the supervised offender. Officer E's conduct ended her 5-year career. **Officer E's Basic and Intermediate Corrections certifications were Revoked.**

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### **What is "due process"?**

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While the definition of "due process" varies among the courts of the land, generally this term refers to a fundamental doctrine to be given notice and an opportunity to be heard.

Within the employment realm, "due process" can be found in the procedures outlined in bargaining units relating to the process prior or during the imposition of discipline and/or termination of employment.

Within the criminal system, "due process" is a constitutional guarantee which requires that every person have the protection of a day in court, representation by an attorney and the benefit of procedures that are speedy, fair, and impartial.

#### **How is due process applied in the denial or revocation process?**

Oregon Revised Statute 181.661 provides that when there is a reasonable basis for revoking the certification of a public safety officer, notice and opportunity for a hearing shall be provided, and reference to the Oregon Administrative Rule is made for procedures.

Oregon Administrative Rule 259-008-0070 details the grounds to deny or revoke a certification and subsection (5) defines the process. Only cases that are discretionary, such as falsification, moral fitness, and discretionary disqualifying criminal convictions are brought before the Board, through the discipline-specific Policy Committee. In each case, the public safety officer has an opportunity to provide mitigating circumstances on his or her behalf. Information provided by the individual, his or her representative, or attorney, is accepted. Once heard by the Policy Committee and the Board, if a decision to revoke is affirmed by the Board, a Notice of Intent to Revoke is issued.

Cases involving conduct which requires mandatory revocation such as discharge for cause and mandatory disqualifying criminal convictions result in issuance of a Notice of Intent to Revoke and do not go through the Policy Committees or the Board because there is no discretion in these cases.

The Notice of Intent to Revoke contains specific due process information on how the public safety officer may proceed, and their opportunity for a contested case hearing. The public safety officer may represent him or herself, or be represented by an attorney. The Administrative Law Judge hearing the case is an impartial judge who is arbitrarily assigned through the Office of Administrative Hearings. A Final Order may be appealed by seeking Judicial Review at the Court of Appeals.

**PLEASE DISSIMINATE THIS INFORMATION TO ALL PUBLIC SAFETY OFFICERS**

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