

**OREGON DPSST**  
***ETHICS BULLETIN***  
**Volume No. 48**



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 resulted in consideration of **revocation or denial** of certifications by DPSST in **August 2007**.

The Department continues to ensure that certified public safety officers and those seeking certification who abuse the public's trust will be held accountable for their actions.

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**August Statistics**

<b>CASES OPENED:</b>	<b>56</b>	<b>OF THE 43 CASES CLOSED:</b>	
<b>Cases Closed:</b>	<b>43</b>	<b>Revoked:</b>	<b>5</b>
<b>Cases Pending:</b>	<b>154</b>	<b>Denied:</b>	<b>1</b>
		<b>No Action:</b>	<b>37</b>

**Case 1**

**Officer A** resigned and was subsequently convicted of Official Misconduct. Officer A developed a personal relationship with an inmate. This relationship then led to misconduct on which the conviction was based. Officer A voluntarily signed a Stipulated Order Revoking Certification. Officer A's misconduct ended his 27-year career.

**Officer A's Basic Corrections Certification was Revoked**

**Case 2**

**Officer B** resigned during an internal investigation for misconduct which included misuse of sick leave, untruthfulness about sick leave usage and other agency violations. Among the misconduct incidents, Officer B called work to take Sick Leave and was shortly thereafter cited for a hunting violation. Officer B was notified that his case would be heard before the Corrections Policy Committee and that he could provide in writing any mitigating circumstances he wished to have considered. The Corrections Policy Committee reviewed the matter and recommended revoking his certification. The Board affirmed the Committee's recommendation. Officer B was mailed a Notice of Intent to Revoke. He did not make a timely request for a hearing. Officer B's misconduct ended his 2-year career.

**Officer B's Basic Corrections Certification was Revoked.**

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### **Case 3**

**Officer C** resigned during an internal investigation for misconduct which included engaging in sexual relations with another individual while on duty, in a patrol vehicle on more than one occasion, and untruthfulness during the investigation. Officer C was notified that his case would be heard before the Police Policy Committee and that he could provide in writing any mitigating circumstances he wished to have considered. The Police Policy Committee reviewed the matter and recommended revoking his certification. The Board affirmed the Committee's recommendation. Officer C was mailed a Notice of Intent to Revoke. He did not make a timely request for a hearing. Officer C's misconduct ended his 13-year career.

**Officer C's Basic Police Certification was Revoked.**

### **Case 4**

**Telecommunicator D** resigned during an internal investigation for misconduct which included violation of agency policies and untruthfulness. Officer D looked up and viewed pornographic photographs on the internet while on duty, maintained a false status check of patrol officers who were in the dispatch center viewing pornographic materials, and was untruthful about her misconduct. Officer D was notified that her case would be heard before the Telecommunications Policy Committee and that she could provide in writing any mitigating circumstances she wished to have considered. The Telecommunications Policy Committee reviewed the matter and recommended revoking her certification. The Board affirmed the Committee's recommendation. Telecommunicator D was mailed a Notice of Intent to Revoke. She did not make a timely request for a hearing. Telecommunicator D's misconduct ended her 3-year career.

**Telecommunicator C's Basic Telecommunicator and Emergency Medical Dispatcher Certifications were Revoked.**

### **Case 5**

**Officer E** resigned during an internal investigation for repeatedly and intentionally disobeying his work plan from a prior sustained progressive discipline incident. In this case Officer F repeatedly visited the home of a fellow officer's wife, while he was on duty and being paid to perform the duties of a police officer. Officer E was untruthful during the investigation. Officer E was notified that his case would be heard before the Police Policy Committee and that he could provide in writing any mitigating circumstances he wished to have considered. The Police Policy Committee reviewed the matter and recommended revoking his certification. The Board affirmed the Committee's recommendation. Officer E was mailed a Notice of Intent to Revoke. He did not make a timely request for a hearing. Officer E's misconduct ended his 7-year career.

**Officer C's Basic and Intermediate Police Certifications were Revoked.**

### **Case 6**

**Officer F** was discharged and subsequently convicted of Official Misconduct. In this case Officer F failed to report knowledge of an illegal sexual relationship between an adult and a minor. Officer F voluntarily signed a Stipulated Order Denying Certification. Officer F's misconduct ended his 1-year career.

**Officer F's Basic Corrections Certification was Denied**

## PUBLIC SAFETY CONSTITUTENT INPUT REQUESTED

### Background:

In 2005 a constituent workgroup of management and non-management representatives from police, corrections, and telecommunications was formed to review and update the list of misdemeanor crimes that should be mandatory disqualifying events for purposes of certification. Phase 1 of their work was finalized, reviewed by constituent agencies and associations, and adopted into our administrative rules over a year ago. The workgroup began Phase 2 of their work during 2006, developing guidelines and identifying appropriate periods of ineligibility for discretionary disqualifying misconduct.

### Phase 2 Workgroup's Efforts:

Types of misconduct (i.e. criminal convictions, moral fitness, discharge for cause, falsification) that may result in loss of certification have been defined in statute over a period of years, and are addressed in several different areas of DPSST's rules. This has resulted in a lack of consistency in definitions and a fragmented approach to revocation and denial. To address this problem, the workgroup identified consistent categories for misconduct, regardless of where that misconduct appeared in rule. The group identified six categories for which revocation or denial would be appropriate and developed "plain language" definitions for each category. Discretionary convictions were linked to the appropriate categories, and initial minimum time periods of ineligibility were identified based on each category's severity. The group also identified the importance of ensuring fairness and consistency of professional standards across all criminal justice disciplines. DPSST staff began developing draft rule changes based on the workgroup's directions.

### Certification Review Workgroup Efforts:

During the 2007 legislative session, a certification review workgroup was formed from members of the Board on Public Safety Standards and Training to address constituents' concerns regarding revocation standards and processes. One such concern was the current "moral fitness" definition, which was seen as too vague and ambiguous. This group reviewed the Phase 2 workgroup's efforts and supported the concept that minimum standards should apply consistently to all types of misconduct. This group also concurred that "plain language" and clear definitions were needed for categories of misconduct, including moral fitness.

### Final Phase 2 Workgroup's Product:

At its last meeting, the workgroup finalized a proposed rule draft that: 1) incorporates the certification review workgroup's concerns with the current "moral fitness" definition, 2) addresses the shared desire to bring consistency and reduce ambiguity, 3) provides for minimum periods of ineligibility based on the category of misconduct, and 4) creates a new process for individuals to seek an eligibility determination from the Board before seeking to become re-employed within public safety following denial or revocation. This will allow individuals and prospective employers to have more certainty about eligibility before offering or accepting an offer of employment.

**The table below outlines the proposed categories of discretionary misconduct and their associated minimum initial periods of ineligibility:**

Category	Definition	Minimum Ineligibility Periods
Dishonesty	Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification	5 to Lifetime
Disregard for the Rights of Others	Includes constitutional violations, violation of the Code of Ethics regarding fairness, respect for the rights of others, protecting the vulnerable and the fundamental duty to protect and serve	5 to 10 years
Misuse of Authority	Includes abuse of public trust, obtaining a benefit or avoidance of detriment, and actions under the color of office	5 to 10 years
Gross Misconduct	Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional would observe in a similar circumstance.	5 to 10 years
Misconduct	Includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession.	3 to 7 years
Insubordination	Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's, or instructor's, refusal to comply with the rule or order constitutes a substantial breach of that person's duties.	3 to 7 years

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**Several other significant changes are proposed for existing rules:**

1. The workgroup proposed redefining the “discharge for cause” criteria to be more consistent with the new discretionary misconduct categories: Consequently, “Insubordination” and “Misconduct” are proposed for removal from this category. The group believed that if they are considered less egregious misconduct in the “discretionary” category, then a discharge for these causes should not result in mandatory permanent ineligibility. Using the same rationale, “Dishonesty,” “Disregard for the Rights of Others,” “and Misuse of Authority” were added to the discharge for cause criteria because of their egregious nature. The broadly defined “Incompetence or Gross Misconduct” was removed; “Incompetence” remained in the discharge criteria, but was more clearly and narrowly defined. “Gross Negligence” was renamed “Gross Misconduct.” Legal counsel from the Oregon Department of Justice provided input on legally sufficient definitions and administrative rule language.
2. Significant changes are proposed to the current definition of Moral Fitness. The workgroup recommended that “Professional Fitness” be utilized as a working synonym, and that “lack of moral fitness” be linked solely to the proposed mandatory and discretionary misconduct categories. These changes would narrow the focus of this category to conduct that is within DPSST and Board jurisdiction.

**Next steps:**

<b>September</b>	Provide draft rules to constituents, associations, agency heads for review and comment.
<b>October</b>	Phase 2 workgroup meets to review comments and amend rules accordingly
<b>November</b>	Send proposed rules to each Policy Committee, proceed according to recommendation
<b>January</b>	Send Rules to Board; if approved file proposed administrative rule and open public comment period
<b>February</b>	Public comment and hearing, amend rules accordingly, file as permanent rule

**Your input is important in this process**

**Please review the proposed changes and provide your feedback.**

**If you belong to a public safety association, please share this information with them and ask that they provide their input.**

**To review the minutes and rules, and provide input:**

1. Using the link: <http://www.oregon.gov/DPSST/SC/ADMINTEST.shtml>, please review the minutes of the workgroup meetings and the text of the proposed rules.
2. If you have a comment on a rule, cite the rule number and provide your comment and your recommended amendment. **Please provide comments by September 21, 2007.**
3. Please send comments to [theresa.king@state.or.us](mailto:theresa.king@state.or.us).

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