

**Fire Policy Committee
Minutes
November 23, 2011**

The Fire Policy Committee of the Board on Public Safety Standards and Training held a regular meeting at 9:00 a.m. on November 23, 2011, at the Oregon Public Safety Academy in Salem, Oregon. Chair John Klum called the meeting to order at 9:05 a.m.

Attendees

Committee Members:

John Klum, Portland Fire & Rescue, Chair
Joe Seibert, Non-Management Firefighter, Vice-Chair
Alan Ferschweiler, Oregon State Fire Fighters Council
Dave Jones, Oregon Fire District Directors Association
Jeff Jones, Oregon Fire Chiefs Association
William Lafferty, Forest Protection Agencies
Johnny Mack, Community College Fire Programs
Dan Petersen, Oregon Fire Instructors Association
Scott Stanton, Oregon Volunteer Firefighters Association – via teleconference
Jim Walker for Mark Wallace, Oregon State Fire Marshal

Committee Members Absent:

Michelle Stevens, Oregon Fire Marshals Association

DPSST Staff:

Eriks Gabliks, Director
Julie Olsen-Fink, Fire Certification Supervisor
Tina Diehl, Fire Certification Specialist
Allison Sebern, Fire Certification Coordinator
Marilyn Lorance, Standards & Certification Program Supervisor
Kristen Turley, Standards & Compliance Coordinator
Linsay Hale, Compliance Coordinator

Guests:

Bill Klein, Chemeketa Community College
Patrick Wineman, Willamette Valley Fire/Rescue Authority
Ryan Karjala, Sisters-Camp Sherman RFPD



1. Minutes from August 24, 2011 meeting

Jeff Jones moved to approve the minutes from the August 24, 2011 Fire Policy Committee meeting. Johnny Mack seconded the motion. The motion carried in a unanimous vote.

2. Fire Ground Leader Task Force - Proposed Revisions to OAR 259-009-0062

Presented by Julie Olsen-Fink

BACKGROUND:

Fire Ground Leader (FGL) is one of the last remaining Oregon-specific standards within the fire certification system. Historically, FGL was created for those individuals who did not want to, or were unable to, pursue Oregon Fire Officer levels of certification. The college course requirements linked to the Fire Officer standards made it difficult for volunteer fire service professionals to attain that level of certification. As a result of those difficulties, FGL was created to provide a standard for training and certification for those who manage the fire ground. Today, FGL is still used by volunteers, but it is also used by career departments who are developing future fire officers.

The DPSST Fire Ground Leader Task Force met and tentatively concluded their work on July 26, 2011. Their purpose was to determine whether the FGL standard needed to be revised. This is due to the significant changes to curriculum in the NFPA Fire Officer standard which potentially had an impact on the FGL standard. Now that national curriculum is available to the Oregon fire service, they can achieve the educational requirements for NFPA Fire Officer I within their home agencies.

TASK FORCE MEMBERS:

Patrick Wineman (Chair)	Willamette Valley Fire Rescue Authority
Brad Paris (Vice Chair)	Salem Fire Department
Mark Boren	Lane County Fire District No.1
Don Willis	Sunriver Fire and Rescue
Jay Alley	Stayton Fire District
Chris Geiger	Clackamas County Fire District No.1
Dave Blakely	Jackson County Fire District No.3
Jim Whelan	Stanfield Rural Fire Protection District
Bill Klein	Chemeketa Community College
Chris Hunt	Corvallis Fire Department
Bill Sharp	Brookings Fire Department
Jason McKinnon	Sandy Fire District No. 72
Jamie McCammon	Boring Fire District
Paul Reynolds	Southwestern Oregon Community College

At the August 24, 2011 Fire Policy Committee (FPC) meeting, Fire Certification provided an update and reviewed the proposed changes to FGL. (This was a non-voting agenda item). FPC member Johnny Mack recommended to FGL Chair Patrick Wineman that “Managing Water Supply Operations” should not be removed as a requirement. Chair Wineman stated he would share this concern with the FGL Task Force.

Since that time, the FGL Task Force determined that “Managing Water Supply Operations” will be retained; however it will now be classified as “Water Supply Operations.” The task force determined that changing the name to “Water Supply Operations” will allow for a greater variance of course options to meet the intended

requirement. Chair Wineman indicated this meets both the concerns of the FPC and the recommendation from the FGL Task Force.

ISSUE:

Staff requests that the FPC review the proposed rule language and determine whether to recommend adoption of these standards for Oregon fire service professionals. For ease of review, only the relevant portion(s) of the revised text are included.

The following proposed language contains recommended additions (bold and underlined text) and deletions (strikethrough text). Please note that all numbering will change based on the proposed upcoming changes for the FGL standards.

(NOTE: The task force did not make any recommendation to change the definition of Fire Ground Leader, therefore there are no changes being made to OAR 259-009-0005.)

259-009-0062

Fire Service Personnel Certification

(m) Fire Ground Leader.

(A) This is a standard that is Oregon-specific.

(B) An applicant applying for Fire Ground Leader must first be certified as an NFPA Fire Fighter II.

(C) An applicant applying for Fire Ground Leader must document training in all of the following areas:

(i) Building Construction: Non-Combustible **and Combustible;**

(ii) ~~Building Construction: Combustible~~ **Emergency Service Delivery;**

(iii) ~~Incident Safety Officer or Fire Fighter Safety~~ **Fire Behavior;**

(iv) ~~Managing Water Supplies Operations~~ **Fire Ground Safety; and**

(v) MCTO — ~~Preparation or PICO~~ **Water Supply Operations;**

(vi) ~~MCTO — Decision Making;~~

(vii) ~~MCTO — Tactics or STICO;~~

(viii) ~~Incident Command System;~~

~~(ix) Fire Investigation.~~

~~(D) A task book must be completed before certification is awarded. **All applicants for certification must complete a Task Performance Evaluation or a Department approved Task Book for Fire Ground Leader. The Evaluation or Task Book must be signed off by the Agency Head or Training Officer before an applicant can qualify for certification.**~~

ACTION ITEM I: Determine whether to recommend filing the proposed language for OAR 259-009-0062 with the Secretary of State as a proposed rule.

ACTION ITEM II: Determine whether to recommend filing the proposed language for OAR 259-009-0062 with the Secretary of State as permanent rule if no comments are received.

ACTION ITEM III: Determine whether there is a significant fiscal impact on small businesses. *No fiscal impact by consensus.*

Jim Walker moved to recommend to the Board to file the proposed language for OAR 259-009-0062 with the change in Section D to read “approved” instead of “signed off”, with the Secretary of State as a proposed rule. Joe Seibert seconded the motion. Johnny Mack moved to recommend to the Board to file the proposed language for OAR 259-009-0062 with the Secretary of State as a permanent rule if no comments are received. Bill Lafferty seconded the motion. The motion carried in a unanimous vote.

3. **NFPA Fire Officer III and IV Task Book Requirements**

Presented by Julie Olsen-Fink

BACKGROUND:

The DPSST National Fire Protection Association (NFPA) Fire Officer Task Force originally met on November 30, 2009 and concluded their work on December 18, 2009. At the time, the task force was assigned the duty of reviewing the currently adopted 2003 Edition of NFPA 1021. They determined it would benefit the Oregon fire service to adopt the 2009 Edition. The Fire Policy Committee (FPC) and the Board approved the recommendation and it was adopted as a permanent rule after the public comment period closed.

On June 24, 2011, the Fire Certification Program received a letter from Chief Arthur Hatch, Sunriver Fire Department and Vice-Chair of the NFPA Fire Officer Committee. Chief Hatch requested the removal of the Fire Officer III and IV task books. The issue was brought to the FPC for discussion on August 24, 2011. The FPC recommended the Fire Officer Task Force reconvene to discuss the issue.

SUMMARY:

The NFPA Fire Officer Task Force met on October 25, 2011 via conference call. The task force discussed the concerns brought forth by Chief Hatch and discussed various options.

Chair Koellermeier asked Fire Certification staff how this would impact the Oregon fire service if the task books were removed. Fire Certification advised this would require an administrative rule change and approval from the FPC, the Board, and the public comment process. They unanimously voted to update the task book to reflect one check box for the skills requirement section from three which was previously required. The task force decided to keep the task performance evaluation as a secondary option. The majority of the fire certification applications have a task book or task performance evaluation option. This recommendation does not require a vote by the FPC as it is currently reflected in rule. The administrative rule does not identify how many times the skills section must be completed in order to apply for certification.

4. Wildland Interface Discussion

Presented by Julie Olsen-Fink

The Fire Fighter Type 2 (FFT2) task book was eliminated by National Wildlife Coordinating Group (NWCG) which most closely aligned with Wildland Interface Fire Fighter. Currently, Fire Fighter Type 1 (FFT1) is the task book requirement for Wildland Interface Fire Fighter.

ISSUE:

It was brought to our attention from a training association that the supervisory component of the FFT1 task book is difficult to complete. A draft application changing the first two sections has been created to address this issue:

WILDLAND INTERFACE FIRE FIGHTER (FFT2)	TRAINING COMPLETED	DATE
S-130 Firefighter Training (Includes L-180)		
S-190 Wildland Fire Behavior		
I-100 Intro to ICS		

- **NO TASK BOOK REQUIRED**

ADVANCED WILDLAND INTERFACE FIRE FIGHTER (FFT1)	TRAINING COMPLETED	DATE
S-131 Firefighter Type I		
S-133 Look Up, Look Down, Look Around		

- **Is Applicant certified as Wildland Interface Fire Fighter (FFT2)?** Yes No
- **Has Applicant completed NWCG FFT1 Task Book*?** Yes No

ACTION REQUESTED:

Determine whether to reconvene the Wildland Interface Task Force to discuss this issue, or should the FPC make a recommendation that could move forward through the public comment and administrative rule process?

Jim Walker and John Klum support the change. Dan Petersen moved to accept the changes to Wildland Interface Fire Fighter (FFT2) and Advanced Wildland Interface Fire Fighter (FFT1) and suggested that they be presented at the January 2012 Board Meeting. Dave Jones seconded the motion. The motion carried in a unanimous vote.

**5. Fallen Fire Fighters Memorial Wall Nomination
Chief Eldon Everton - Grants Pass Fire Department**

Presented by Julie Olsen-Fink

BACKGROUND:

On March 11, 1964, Chief Eldon Everton was stricken by a heart attack while fighting a house fire in Grants Pass, Oregon. Chief Everton passed away on April 17, 1964 at Southern Oregon Hospital. He was a member of the Grants Pass Fire Department from 1936 until he passed away in 1964.

His granddaughter Michelle Remmy, contacted DPSST to see if her grandfather qualified to have his name inscribed on the Oregon Fallen Fire Fighters Memorial. DPSST then contacted Deputy Chief Lang Johnson of Grants Pass Fire and Rescue who recently had a conversation with former Grants Pass Firefighter Pat Franzen (August, 15, 1958 to December 31, 1969). Mr. Franzen was able to verify that he was part of the initial attack crew with Chief Everton on the day of the fire. He vividly recalls Chief Everton making access into the two-story structure and running up the stairs. On Chief Everton's return to the ground floor he was complaining of chest pain. Chief Everton left the scene and went home not feeling well and was later admitted to the hospital. It is Mr. Franzen's belief that Chief Everton passed as a result of the heart attack he suffered that day.

STAFF RECOMMENDATION:

The death meets the criteria for the Oregon Fallen Fire Fighters Memorial.

ACTION ITEM(S): Determine whether Chief Eldon Everton's name will be included on the Fallen Fire Fighters Memorial Wall.

Dan Peterson moved to add Chief Eldon Everton's name to the Fallen Fire Fighters Memorial Wall. Bill Lafferty seconded the motion. The motion carried in a unanimous vote.

6. Denial Case Review for Daniel Contento #28320 – Harbor RFPD

Presented by Kristen Turley

ISSUE:

Should Daniel CONTENTO's application for NFPA Fire Fighter be denied based on discretionary disqualifying criminal convictions defined in OAR 259-009-0070(4)?

BACKGROUND and OVERVIEW:

This case involves the following actions and processes related to CONTENTO:

Between 2010 and 2011, CONTENTO has served as a fire service professional.

On May 6, 2011, CONTENTO applied for a NFPA Fire Fighter certification.

LEDS identified CONTENTO as a multi-source offender with an FBI number, therefore requiring fingerprints. On or about August 18, 2011, DPSST received the fingerprint results which identified him as a Sexual Offender.

On or about February 20, 2001, CONTENTO was convicted of Attempted Coercion, a Class A Misdemeanor. Based on the date of the conviction, Attempted Coercion is not a discretionary disqualifying conviction, for purposes of certification.

On or about March 26, 2001, CONTENTO was convicted of Unlawful Possession of a Firearm. Unlawful Possession of a Firearm is not a discretionary disqualifying crime, for purposes of certification.

On or about December 10, 2001, CONTENTO was convicted of Third Degree Criminal Mischief. Third Degree Criminal Mischief is not a discretionary disqualifying crime, for purposes of certification.

On or about May 22, 2002, CONTENTO was convicted of two counts of Disorderly Conduct. Disorderly Conduct is not a discretionary disqualifying crime, for purposes of certification.

*On or about January 24, 2003, CONTENTO was convicted of Third Degree Sexual Abuse. As a result of this conviction CONTENTO was required to register as a sexual offender with the Oregon State Police Sex Offender Unit. **Third Degree Sexual Abuse is a discretionary disqualifying crime, for purposes of certification.***

On or about January 4, 2006, CONTENTO violated his probation and a judgment was issued extending his probation.

*On or about February 24, 2003, CONTENTO was convicted of Second Degree Theft. **Second Degree Theft is a discretionary disqualifying crime, for purposes of certification.***

On or about August 2, 2011, DPSST received a letter from Jackson County Sheriff's Office advising that the incident reports for Theft 2, Unlawful Possession of a Firearm, and Attempted Coercion have been purged.

These convictions were compared to administrative rules relating to discretionary disqualifying criminal convictions for fire service personnel. This matter must be reviewed by the Fire Policy Committee (FPC).

On September 23, 2011, TURLEY mailed CONTENTO a letter advising him that his case would be heard before the FPC and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. As a policy, DPSST also provides a Stipulated Order Revoking and/or Denying Certification to individuals whose cases are to be heard by a Policy Committee. Some individuals elect to sign a Stipulated Order, which ends the denial or revocation process.

On October 20, 2011, CONTENTO provided information for the Committee's consideration.

On October 24, 2011, DPSST staff spoke to Oregon State Police Sex Offender Unit and obtained the following information:

- *Oregon is a state that requires Sex Offender registration for life, however the individual can petition for relief 10-years after completion of probation.*
- *ORS 181.830 provides additional provisions that allow an individual to apply for a relief sooner than 10-years.*

DISCUSSION:

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct or criminal convictions that require denial or revocation. For all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

DISCRETIONARY DISQUALIFYING MISCONDUCT:

OAR 259-009-0070(4) specifies discretionary disqualifying conduct, which includes criminal convictions and falsification issues. Subsection 4 of the rule identifies a list of discretionary disqualifying crimes that must be reviewed by the FPC.

In OAR 259-009-0070(4)(b) The Department, through the Fire Policy Committee and Board, has defined core values that are integral to the fire service profession. These values are:

- (a) Category I: **Honesty**. Honesty includes straightforwardness of conduct; integrity, adherence to the facts; freedom from subterfuge or duplicity; truthfulness and sincerity.
- (b) Category II: **Professionalism**. Professionalism includes the conduct, aims, or qualities that characterize or mark a profession or a professional person; extreme competence in an occupation or pursuit.
- (c) Category III: **Justice**. Justice includes just treatment, the quality or characteristics of being just, impartial, or fair.

OAR 259-009-0070(4)(c) provides that, pursuant to ORS 181.662(3)(b), the Department has determined that, in the absence of a determination to the contrary by the Fire Policy Committee and Board, a Fire Service Professional or Instructor who has been convicted of the *[listed]* crimes has violated the core values of the fire service profession and may not be fit to receive or hold certification.

Staff Explanation: The above rule creates a presumption that if an individual has been convicted of any of the discretionary crimes, they have violated the core values of the fire service profession and may not be fit to receive or hold certification. To determine that the applicant may hold certification means that the FPC has determined that in the case of the subject individual, these convictions do not violate the core values.

SPECIFIC TO THIS CASE:

OAR 259-009-0070(4) specifies the discretionary disqualifying conviction of Second Degree Theft [ORS 164.045] as violating Category I, Honesty, based on the elements of the crime.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, OAR 259-009-0070(7)(d) provides that the FPC and Board will consider aggravating and mitigating circumstances including, but not limited to the following:

- (A) When the conduct occurred in relation to the fire service professional's or instructor's service as a fire service professional or instructor (i.e., before, during, after);
- (B) Whether the fire service professional or instructor served time in prison/jail; and if so, for how long;
- (C) Whether restitution was involved, and if so, whether the fire service professional or instructor met all obligations;
- (D) Whether the fire service professional or instructor was on parole or probation, and if so, when the parole or probation ended;
- (E) Whether the fire service professional or instructor has been convicted of the same conduct more than once, and if so, over what period of time;
- (F) Whether the conduct involved domestic violence;
- (G) Whether the fire service professional or instructor self-reported the conduct;
- (H) Whether the conduct involved dishonesty, fraud, deceit, or misrepresentation;
- (I) Whether the conduct was prejudicial to the administration of justice;
- (J) Whether the conduct adversely reflects on a fire service professional's or instructor's fitness to perform as a fire service professional or instructor; and
- (K) Whether the conduct makes the fire service professional or instructor otherwise unfit to render effective service because of the agency's or public's loss of confidence that the fire service professional or instructor possesses the core values integral to the fire service profession.

STANDARD OF PROOF:

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

ACTION ITEM 1:

Staff requests the Fire Policy Committee review the matter and make a recommendation to the Board whether or not to deny CONTENTO's certification by votes on the following:

1. By vote, the Fire Policy Committee *adopts/does not adopt* the Staff report as the record on which their recommendations are based.
2. By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case**.
 - b. The identified conduct *did/did not* violate the core value of **Honesty**.
 - c. The identified conduct *did/did not* violate the core value of **Professionalism**.
 - d. The identified conduct *did/did not* violate the core value of **Justice**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Fire Policy Committee finds that CONTENTO's conduct *does/does not* rise to the level to warrant denial of his certification, and therefore recommends to the Board that CONTENTO's certification be *denied/not denied*.

ACTION ITEM 2: (to be considered if denial and revocation are recommended)

According to OAR 259-009-0070(5) upon determination to proceed with the revocation and/or denial of a fire service professional's or instructor's certification based on discretionary disqualifying misconduct, the Fire Policy Committee and Board will determine an initial minimum period of ineligibility to re-apply for certification. The initial minimum period of ineligibility will range from 30 days to 7 (seven) years.

By vote, the Fire Policy Committee recommends a minimum initial period of ineligibility of time to be determined.



Jeff Jones moved that the committee adopts the staff report as the record on which their recommendations are based. Dan Petersen seconded the motion. The motion carried unanimously.

By discussion and consensus:

- a. Identify and articulate the misconduct that is specific to this case.
Third Degree Sexual Abuse is a discretionary disqualifying crime, for purposes of certification and Second Degree Theft is a discretionary disqualifying crime, for purposes of certification.
- b. The identified conduct **did** violate the core value of Honesty.
- c. The identified conduct **did** violate the core value of Professionalism.
- d. The identified conduct **did** violate the core value of Justice.

By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

The FPC identified the following conduct as aggravating circumstances:

- His statements in the incident reports which contradicted his more recent statements.
- His probation violation and jail time.
- His conviction of Attempted Coercion.
- He had used his alcohol use to excuse his conduct rather than taking responsibility for his actions.

The FPC identified the following conduct as mitigating circumstances:

- He self-reported the theft.
- His letter to the FPC appeared to be more honest about his prior conduct than his statements in the incident reports.
- A substantial amount of time has passed since his last conviction and he has had good behavior since.
- His sex abuse conviction was not a violent crime.

Jeff Jones moved that the Committee finds that CONTENTO's conduct does rise to the level to warrant denial of his certification, and therefore recommends to the Board that CONTENTO's certification be denied. Jim Walker seconded the motion. The motion carried unanimously.

Jim Walker moved that the committee recommends to the Board that CONTENTO's initial minimum period of ineligibility to re-apply for certifications would be August 1, 2013. Dan Petersen seconded the motion. The motion carried unanimously.

7. Denial Case Review for Kenneth Dustin #13314 – Jackson County RFPD #4

Presented by Kristen Turley

ISSUE:

Should Kenneth DUSTIN's application for NFPA Fire Fighter be denied based on discretionary disqualifying criminal convictions defined in OAR 259-009-0070(4)?

BACKGROUND and OVERVIEW:

This case involves the following actions and processes related to DUSTIN:

Between 2001 and 2011, DUSTIN has served as a fire service professional; on July 19, 1999 he obtained his Wildland Interface Fire Fighter certificate. That certificate lapsed on January 1, 2007.

On June 6, 2011, DUSTIN applied for a NFPA Fire Fighter certification.

*On or about February 23, 2004, DUSTIN was convicted of Driving While Suspended. **Driving While Suspended is a discretionary disqualifying crime, for purposes of certification.***

*On or about August 4, 2004, DUSTIN was convicted of Harassment-Physical and Fourth Degree Assault. **Fourth Degree Assault is a discretionary disqualifying crime, for purposes of certification.***

These convictions were compared to administrative rules relating to discretionary disqualifying criminal convictions for fire service personnel. This matter must be reviewed by the Fire Policy Committee (FPC).

On September 26, 2011, TURLEY emailed DUSTIN a letter advising him that his case would be heard before the FPC and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. As a policy, DPSST also provides a Stipulated Order Revoking and/or Denying Certification to individuals whose cases are to be heard by a Policy Committee. Some individuals elect to sign the Stipulated Order, which ends the denial or revocation process.

On October 7, 2011, DUSTIN provided information for the Committee's consideration.

DISCUSSION:

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct or criminal convictions that require denial or revocation. For all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

DISCRETIONARY DISQUALIFYING MISCONDUCT:

OAR 259-009-0070(4) specifies discretionary disqualifying conduct, which includes criminal convictions and falsification issues. Subsection 4 of the rule identifies a list of discretionary disqualifying crimes that must be reviewed by the FPC.

In OAR 259-009-0070(4)(b) The Department, through the Fire Policy Committee and Board, has defined core values that are integral to the fire service profession. These values are:

- (a) Category I: **Honesty**. Honesty includes straightforwardness of conduct; integrity, adherence to the facts; freedom from subterfuge or duplicity; truthfulness and sincerity.
- (b) Category II: **Professionalism**. Professionalism includes the conduct, aims, or qualities that characterize or mark a profession or a professional person; extreme competence in an occupation or pursuit.
- (c) Category III: **Justice**. Justice includes just treatment, the quality or characteristics of being just, impartial, or fair.

OAR 259-009-0070(4)(c) provides that, pursuant to ORS 181.662(3)(b), the Department has determined that, in the absence of a determination to the contrary by the Fire Policy Committee and Board, a Fire Service Professional or Instructor who has been convicted of the *[listed]* crimes has violated the core values of the fire service profession and may not be fit to receive or hold certification.

Staff Explanation: The above rule creates a presumption that if an individual has been convicted of any of the discretionary crimes, they have violated the core values of the fire service profession and may not be fit to receive or hold certification. To determine that the applicant may hold certification means that the FPC has determined that in the case of the subject individual, these convictions do not violate the core values.

SPECIFIC TO THIS CASE:

OAR 259-009-0070(4) specifies the discretionary disqualifying conviction of Driving While Suspended [ORS 811.182] as violating Category II, Professionalism, based on the elements of the crime.

OAR 259-009-0070(4) specifies the discretionary disqualifying conviction of Fourth Degree Assault [ORS 163.160] as violating Category III, Justice, based on the elements of the crime.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, OAR 259-009-0070(7)(d) provides that the FPC and Board will consider aggravating and mitigating circumstances including, but not limited to the following:

(A) When the conduct occurred in relation to the fire service professional's or instructor's service as a fire service professional or instructor (i.e., before, during, after);

(B) Whether the fire service professional or instructor served time in prison/jail; and if so, for how long;

(C) Whether restitution was involved, and if so, whether the fire service professional or instructor met all obligations;

(D) Whether the fire service professional or instructor was on parole or probation, and if so, when the parole or probation ended;

(E) Whether the fire service professional or instructor has been convicted of the same conduct more than once, and if so, over what period of time;

(F) Whether the conduct involved domestic violence;

(G) Whether the fire service professional or instructor self-reported the conduct;

(H) Whether the conduct involved dishonesty, fraud, deceit, or misrepresentation;

(I) Whether the conduct was prejudicial to the administration of justice;

(J) Whether the conduct adversely reflects on a fire service professional's or instructor's fitness to perform as a fire service professional or instructor; and

(K) Whether the conduct makes the fire service professional or instructor otherwise unfit to render effective service because of the agency's or public's loss of confidence that the fire service professional or instructor possesses the core values integral to the fire service profession.

STANDARD OF PROOF:

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

ACTION ITEM 1:

Staff requests the Fire Policy Committee review the matter and make a recommendation to the Board whether or not to deny DUSTIN's certification by votes on the following:

1. By vote, the Fire Policy Committee *adopts/does not adopt* the Staff report as the record on which their recommendations are based.
2. By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case**.
 - b. The identified conduct *did/did not* violate the core value of **Honesty**.
 - c. The identified conduct *did/did not* violate the core value of **Professionalism**.
 - d. The identified conduct *did/did not* violate the core value of **Justice**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Fire Policy Committee finds that DUSTIN's conduct *does/does not* rise to the level to warrant denial of his certification(s), and therefore recommends to the Board that DUSTIN's certification be *denied/not denied*.

ACTION ITEM 2: (to be considered if denial and/or revocation are recommended)

According to OAR 259-009-0070(5) upon determination to proceed with the revocation and/or denial of a fire service professional's or instructor's certification based on discretionary disqualifying misconduct, the Fire Policy Committee and Board will determine an initial minimum period of ineligibility to re-apply for certification. The initial minimum period of ineligibility will range from 30 days to 7 (seven) years.

By vote, the Fire Policy Committee recommends a minimum initial period of ineligibility of time to be determined.



Jim Walker moved that the committee adopts the staff report as the record on which their recommendations are based. Johnny Mack seconded the motion. The motion carried unanimously.

By discussion and consensus:

- a. Identify and articulate the misconduct that is specific to this case.
Driving While Suspended is a discretionary disqualifying crime, for purposes of certification and Fourth Degree Assault is a discretionary disqualifying crime, for purposes of certification.
- b. The identified conduct **did** violate the core value of Honesty.
- c. The identified conduct **did** violate the core value of Professionalism.
- d. The identified conduct **did** violate the core value of Justice.

By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

The FPC identified the following conduct as aggravating circumstances:

- His letter he provided to the committee that told a different story.
- His statement that he fought and charges were dismissed, when not all of them were.

The FPC identified the following conduct as mitigating circumstances:

- Conduct occurred prior to entry into the fire service.
- His letters of support.
- His Driving While suspended conviction was a result of his own admission.
- Seven years have passed without any additional criminal incidents.

Dan Petersen moved that the Committee finds that DUSTIN's conduct does rise to the level to warrant denial of his certification. Jim Walker seconded the motion. The motion carried unanimously.

Jeff Jones moved that based on DUSTIN's mitigating circumstances, the Committee recommends to the Board that DUSTIN's certification not be denied. Dan Petersen seconded the motion. The motion carried unanimously.

8. Denial Case Review for Anthony Hadeed #29692 – Hoodland RFPD

Presented by Kristen Turley

ISSUE:

Should Anthony HADEED's application for NFPA Fire Fighter be denied based on a discretionary disqualifying criminal conviction defined in OAR 259-009-0070(4)?

BACKGROUND and OVERVIEW:

This case involves the following actions and processes related to HADEED:

HADEED has served as a fire service professional since 2011.

On August 8, 2011, HADEED applied for a NFPA Fire Fighter certification.

*On or about April 6, 2009, HADEED was convicted of Second Degree Theft. **Second Degree Theft is a discretionary disqualifying crime, for purposes of certification.***

This conviction was compared to administrative rules relating to discretionary disqualifying criminal convictions for fire service personnel. This matter must be reviewed by the Fire Policy Committee (FPC).

On September 26, 2011, TURLEY mailed HADEED a letter advising him that his case would be heard before the FPC and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. As a policy, DPSST also provides a Stipulated Order Revoking and/or Denying Certification to individuals whose cases

are to be heard by a Policy Committee. Some individuals elect to sign a Stipulated Order, which ends the denial or revocation process.

On October 24, 2011, HADEED provided information for the Committee's consideration.

DISCUSSION:

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct or criminal convictions that require denial or revocation. For all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

DISCRETIONARY DISQUALIFYING MISCONDUCT:

OAR 259-009-0070(4) specifies discretionary disqualifying conduct, which includes criminal convictions and falsification issues. Subsection 4 of the rule identifies a list of discretionary disqualifying crimes that must be reviewed by the FPC.

In OAR 259-009-0070(4)(b) The Department, through the Fire Policy Committee and Board, has defined core values that are integral to the fire service profession. These values are:

- (a) Category I: **Honesty**. Honesty includes straightforwardness of conduct; integrity, adherence to the facts; freedom from subterfuge or duplicity; truthfulness and sincerity.
- (b) Category II: **Professionalism**. Professionalism includes the conduct, aims, or qualities that characterize or mark a profession or a professional person; extreme competence in an occupation or pursuit.
- (c) Category III: **Justice**. Justice includes just treatment, the quality or characteristics of being just, impartial, or fair.

OAR 259-009-0070(4)(c) provides that, pursuant to ORS 181.662(3)(b), the Department has determined that, in the absence of a determination to the contrary by the Fire Policy Committee and Board, a Fire Service Professional or Instructor who has been convicted of the *[listed]* crimes has violated the core values of the fire service profession and may not be fit to receive or hold certification.

Staff Explanation: The above rule creates a presumption that if an individual has been convicted of any of the discretionary crimes, they have violated the core values of the fire service profession and may not be fit to receive or hold certification. To determine that the applicant may hold certification means that the FPC has determined that in the case of the subject individual, these convictions do not violate the core values.

SPECIFIC TO THIS CASE:

OAR 259-009-0070(4) specifies the discretionary disqualifying conviction of Second Degree Theft [ORS 164.045] as violating Category I, Honesty, based on the elements of the crime.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, OAR 259-009-0070(7)(d) provides that the FPC and Board will consider aggravating and mitigating circumstances including, but not limited to the following:

- (A) When the conduct occurred in relation to the fire service professional's or instructor's service as a fire service professional or instructor (i.e., before, during, after);
- (B) Whether the fire service professional or instructor served time in prison/jail; and if so, for how long;
- (C) Whether restitution was involved, and if so, whether the fire service professional or instructor met all obligations;
- (D) Whether the fire service professional or instructor was on parole or probation, and if so, when the parole or probation ended;
- (E) Whether the fire service professional or instructor has been convicted of the same conduct more than once, and if so, over what period of time;
- (F) Whether the conduct involved domestic violence;
- (G) Whether the fire service professional or instructor self-reported the conduct;
- (H) Whether the conduct involved dishonesty, fraud, deceit, or misrepresentation;
- (I) Whether the conduct was prejudicial to the administration of justice;
- (J) Whether the conduct adversely reflects on a fire service professional's or instructor's fitness to perform as a fire service professional or instructor; and
- (K) Whether the conduct makes the fire service professional or instructor otherwise unfit to render effective service because of the agency's or public's loss of confidence that the fire service professional or instructor possesses the core values integral to the fire service profession.

STANDARD OF PROOF:

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

ACTION ITEM 1:

Staff requests the Fire Policy Committee review the matter and make a recommendation to the Board whether or not to deny HADEED's certification by votes on the following:

1. By vote, the Fire Policy Committee *adopts/does not adopt* the Staff report as the record on which their recommendations are based.
2. By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case**.
 - b. The identified conduct *did/did not* violate the core value of **Honesty**.
 - c. The identified conduct *did/did not* violate the core value of **Professionalism**.
 - d. The identified conduct *did/did not* violate the core value of **Justice**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Fire Policy Committee finds that HADEED's conduct *does/does not* rise to the level to warrant denial of his certification, and therefore recommends to the Board that HADEED's certification be *denied/not denied*.

ACTION ITEM 2: (to be considered if denial and revocation are recommended)

According to OAR 259-009-0070(5) upon determination to proceed with the revocation and/or denial of a fire service professional's or instructor's certification based on discretionary disqualifying misconduct, the Fire Policy Committee and Board will determine an initial minimum period of ineligibility to re-apply for certification. The initial minimum period of ineligibility will range from 30 days to 7 (seven) years.

By vote, the Fire Policy Committee recommends a minimum initial period of ineligibility of *time to be determined*.



Johnny Mack moved that the committee adopts the staff report as the record on which their recommendations are based. Joe Seibert seconded the motion. The motion carried unanimously.

By discussion and consensus:

- a. Identify and articulate the misconduct that is specific to this case.
Second Degree Theft is a discretionary disqualifying crime, for purposes of certification.
- b. The identified conduct **did** violate the core value of Honesty.
- c. The identified conduct **did** violate the core value of Professionalism.
- d. The identified conduct **did not** violate the core value of Justice.

By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

The FPC did not identify any aggravating circumstances.

The FPC identified the following conduct as mitigating circumstances:

- His conduct cost him a full-time job as a fire fighter.
- His letters of support and the number of individuals that support him.
- His age at the time of his conviction.
- He has shown initiative by trying to get the crime expunged.

Jeff Jones moved that, based on mitigating circumstances, the Committee finds that HADEED's conduct does not rise to the level to warrant denial of his certification, therefore recommends to the Board that HADEED's certification not be denied. Dan Petersen seconded the motion. The motion carried unanimously.

9. Revocation/Denial Case Review for Tyler Johnson #21878 – Seaside Fire & Rescue

Presented by Kristen Turley

ISSUE:

Should Tyler JOHNSON's application for Wildland Interface Engine Boss certification be denied and his NFPA Pumper Operator and NFPA Driver certifications be revoked based on a discretionary disqualifying criminal conviction defined in OAR 259-009-0070(4)?

BACKGROUND and OVERVIEW:

This case involves the following actions and processes related to JOHNSON:

Between 2005 and 2011, JOHNSON has served as a fire service professional, and he obtained the following certifications

Wildland Interface Fire Fighter on May 18, 2006.

NFPA Fire Fighter I on January 10, 2008.

The following certifications were issued in error without the Fire Policy Committee's review to determine eligibility:

NFPA Pumper Operator and NFPA Driver on February 18, 2010.

On July 12, 2011, JOHNSON applied for a Wildland Interface Engine Boss certification.

*On or about July 1, 2003, JOHNSON was convicted of First Degree Criminal Mischief and two counts of Menacing. **First Degree Criminal Mischief is a discretionary disqualifying crime, for purposes of certification.***

This conviction was compared to administrative rules relating to discretionary disqualifying criminal convictions for fire service personnel. This matter must be reviewed by the Fire Policy Committee (FPC).

On September 26, 2011, TURLEY mailed JOHNSON a letter advising him that his case would be heard before the FPC and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. As a policy, DPSST also provides a Stipulated Order Revoking and/or Denying Certification to individuals whose cases are to be heard by a Policy Committee. Some individuals elect to sign the Stipulated Order, which ends the denial or revocation process.

On September 30, 2011, JOHNSON provided information for the Committee's consideration.

DISCUSSION:

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct or criminal convictions that require denial or revocation. For all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

DISCRETIONARY DISQUALIFYING MISCONDUCT:

OAR 259-009-0070(4) specifies discretionary disqualifying conduct, which includes criminal convictions and falsification issues. Subsection 4 of the rule identifies a list of discretionary disqualifying crimes that must be reviewed by the FPC.

In OAR 259-009-0070(4)(b) The Department, through the Fire Policy Committee and Board, has defined core values that are integral to the fire service profession. These values are:

(a) Category I: **Honesty**. Honesty includes straightforwardness of conduct; integrity, adherence to the facts; freedom from subterfuge or duplicity; truthfulness and sincerity.

(b) Category II: **Professionalism**. Professionalism includes the conduct, aims, or qualities that characterize or mark a profession or a professional person; extreme competence in an occupation or pursuit.

(c) Category III: **Justice**. Justice includes just treatment, the quality or characteristics of being just, impartial, or fair.

OAR 259-009-0070(4)(c) provides that, pursuant to ORS 181.662(3)(b), the Department has determined that, in the absence of a determination to the contrary by the Fire Policy Committee and Board, a Fire Service Professional or Instructor who has been convicted of the *[listed]* crimes has violated the core values of the fire service profession and may not be fit to receive or hold certification.

Staff Explanation: The above rule creates a presumption that if an individual has been convicted of any of the discretionary crimes, they have violated the core values of the fire service profession and may not be fit to receive or hold certification. To determine that the applicant may hold certification means that the FPC has determined that in the case of the subject individual, these convictions do not violate the core values.

SPECIFIC TO THIS CASE:

OAR 259-009-0070(4) specifies the discretionary disqualifying conviction of First Degree Criminal Mischief [ORS 164.365] as violating Category III, Justice, based on the elements of the crime.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, OAR 259-009-0070(7)(d) provides that the FPC and Board will consider aggravating and mitigating circumstances including, but not limited to the following:

(A) When the conduct occurred in relation to the fire service professional's or instructor's service as a fire service professional or instructor (i.e., before, during, after);

(B) Whether the fire service professional or instructor served time in prison/jail; and if so, for how long;

(C) Whether restitution was involved, and if so, whether the fire service professional or instructor met all obligations;

(D) Whether the fire service professional or instructor was on parole or probation, and if so, when the parole or probation ended;

(E) Whether the fire service professional or instructor has been convicted of the same conduct more than once, and if so, over what period of time;

(F) Whether the conduct involved domestic violence;

(G) Whether the fire service professional or instructor self-reported the conduct;

(H) Whether the conduct involved dishonesty, fraud, deceit, or misrepresentation;

(I) Whether the conduct was prejudicial to the administration of justice;

(J) Whether the conduct adversely reflects on a fire service professional's or instructor's fitness to perform as a fire service professional or instructor; and

(K) Whether the conduct makes the fire service professional or instructor otherwise unfit to render effective service because of the agency's or public's loss of confidence that the fire service professional or instructor possesses the core values integral to the fire service profession.

STANDARD OF PROOF:

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

ACTION ITEM 1:

Staff requests the Fire Policy Committee review the matter and make a recommendation to the Board whether or not to revoke and deny JOHNSON's certifications by votes on the following:

1. By vote, the Fire Policy Committee *adopts/does not adopt* the Staff report as the record on which their recommendations are based.
2. By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case**.
 - b. The identified conduct *did/did not* violate the core value of **Honesty**.

- c. The identified conduct *did/did not* violate the core value of **Professionalism**.
- d. The identified conduct *did/did not* violate the core value of **Justice**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Fire Policy Committee finds that JOHNSON's conduct *does/does not* rise to the level to warrant revocation and denial of his certification(s), and therefore recommends to the Board that JOHNSON's certifications be *revoked/not revoked and be denied/not denied*.

ACTION ITEM 2: (to be considered if denial and revocation are recommended)

According to OAR 259-009-0070(5) upon determination to proceed with the revocation and/or denial of a fire service professional's or instructor's certification based on discretionary disqualifying misconduct, the Fire Policy Committee and Board will determine an initial minimum period of ineligibility to re-apply for certification. The initial minimum period of ineligibility will range from 30 days to 7 (seven) years.

By vote, the Fire Policy Committee recommends a minimum initial period of ineligibility of time to be determined.



Johnny Mack moved that the committee adopts the staff report as the record on which their recommendations are based. Scott Stanton seconded the motion. The motion carried unanimously.

By discussion and consensus:

- a. Identify and articulate the misconduct that is specific to this case.
First Degree Criminal Mischief is a discretionary disqualifying crime, for purposes of certification.
- b. The identified conduct **did not** violate the core value of Honesty.
- c. The identified conduct **did** violate the core value of Professionalism.
- d. The identified conduct **did** violate the core value of Justice.

By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

The FPC identified the following conduct as aggravating circumstances:

- His probation violation and subsequent arrest warrant for non-payment.

The FPC identified the following conduct as mitigating circumstances:

- The conduct occurred prior to entering the fire service.
- The conviction occurred over seven years ago.
- He had no prior criminal activity.
- He satisfied his court obligations.
- He successfully completed probation.
- His age at the time of his conviction.
- His performance as a volunteer fire fighter over the last two years.

Jeff Jones moved that based on mitigating circumstances the Committee finds that JOHNSON's conduct does not rise to the level to warrant denial and revocation of his certifications, therefore recommends to the Board that JOHNSON's certifications not be denied or revoked. Johnny Mack seconded the motion. The motion carried unanimously.

10. Revocation Case Review for Nathan Ohrt #16473 – Salem Fire Dept./Mill City RFPD

Presented by Kristen Turley

ISSUE:

Should Nathan OHRT's NFPA Driver, First Responder Operations, Hazardous Materials Technician, Wildland Interface Fire Fighter, NFPA Fire Fighter I, NFPA Fire Fighter II, and NFPA Fire Instructor I certifications be revoked based on a discretionary disqualifying criminal conviction defined in OAR 259-009-0070(4)?

BACKGROUND and OVERVIEW:

This case involves the following actions and processes related to OHRT:

OHRT has served as a fire service professional since 1998. During this time he has obtained the following certifications:

NFPA Driver on July 15, 2004

NFPA Fire Fighter I on September 16, 2004

First Responder Operations & Hazardous Materials Technician on March 15, 2007

NFPA Fire Fighter II on May 24, 2007

NFPA Fire Instructor I on June 12, 2008

Wildland Interface Fire Fighter on July 16, 2009

On or about June 29, 2011, Salem Fire Department reported OHRT's conviction of a discretionary disqualifying crime.

*On or about December 28, 2010, OHRT was convicted of DUII and Fourth Degree Assault. **Fourth Degree Assault is a discretionary disqualifying crime, for purposes of certification.***

This conviction was compared to administrative rules relating to discretionary disqualifying criminal convictions for fire service personnel. This matter must be reviewed by the Fire Policy Committee (FPC).

On September 21, 2011, TURLEY mailed OHRT a letter advising him that his case would be heard before the FPC and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration. As a policy, DPSST also provides a Stipulated Order Revoking and/or Denying Certification to individuals whose cases are to be heard by a Policy Committee. Some individuals elect to sign a Stipulated Order, which ends the denial or revocation process.

On October 21, 2011, OHRT and Salem Fire provided information for the FPC's review.

DISCUSSION:

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct or criminal convictions that require denial or revocation. For all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

DISCRETIONARY DISQUALIFYING MISCONDUCT:

OAR 259-009-0070(4) specifies discretionary disqualifying conduct, which includes criminal convictions and falsification issues. Subsection 4 of the rule identifies a list of discretionary disqualifying crimes that must be reviewed by the FPC.

In OAR 259-009-0070(4)(b) The Department, through the Fire Policy Committee and Board, has defined core values that are integral to the fire service profession. These values are:

(a) Category I: **Honesty**. Honesty includes straightforwardness of conduct; integrity, adherence to the facts; freedom from subterfuge or duplicity; truthfulness and sincerity.

(b) Category II: **Professionalism**. Professionalism includes the conduct, aims, or qualities that characterize or mark a profession or a professional person; extreme competence in an occupation or pursuit.

(c) Category III: **Justice**. Justice includes just treatment, the quality or characteristics of being just, impartial, or fair.

OAR 259-009-0070(4)(c) provides that, pursuant to ORS 181.662(3)(b), the Department has determined that, in the absence of a determination to the contrary by the Fire Policy Committee and Board, a Fire Service Professional or Instructor who has been convicted of the *[listed]* crimes has violated the core values of the fire service profession and may not be fit to receive or hold certification.

Staff Explanation: The above rule creates a presumption that if an individual has been convicted of any of the discretionary crimes, they have violated the core values of the fire service profession and may not be fit to receive or hold certification. To determine that the applicant may hold certification means that the FPC has determined that in the case of the subject individual, these convictions do not violate the core values.

SPECIFIC TO THIS CASE:

OAR 259-009-0070(4) specifies the discretionary disqualifying conviction of Fourth Degree Assault [ORS 163.160] as violating Category III, Justice, based on the elements of the crime.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, OAR 259-009-0070(7)(d) provides that the FPC and Board will consider aggravating and mitigating circumstances including, but not limited to the following:

(A) When the conduct occurred in relation to the fire service professional's or instructor's service as a fire service professional or instructor (i.e., before, during, after);

(B) Whether the fire service professional or instructor served time in prison/jail; and if so, for how long;

(C) Whether restitution was involved, and if so, whether the fire service professional or instructor met all obligations;

(D) Whether the fire service professional or instructor was on parole or probation, and if so, when the parole or probation ended;

(E) Whether the fire service professional or instructor has been convicted of the same conduct more than once, and if so, over what period of time;

(F) Whether the conduct involved domestic violence;

(G) Whether the fire service professional or instructor self-reported the conduct;

(H) Whether the conduct involved dishonesty, fraud, deceit, or misrepresentation;

(I) Whether the conduct was prejudicial to the administration of justice;

(J) Whether the conduct adversely reflects on a fire service professional's or instructor's fitness to perform as a fire service professional or instructor; and

(K) Whether the conduct makes the fire service professional or instructor otherwise unfit to render effective service because of the agency's or public's loss of confidence that the fire service professional or instructor possesses the core values integral to the fire service profession.

STANDARD OF PROOF:

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

ACTION ITEM 1:

Staff requests the Fire Policy Committee review the matter and make a recommendation to the Board whether or not to revoke OHRT's certifications by votes on the following:

1. By vote, the Fire Policy Committee *adopts/does not adopt* the Staff report as the record on which their recommendations are based.
2. By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case**.
 - b. The identified conduct *did/did not* violate the core value of **Honesty**.
 - c. The identified conduct *did/did not* violate the core value of **Professionalism**.
 - d. The identified conduct *did/did not* violate the core value of **Justice**.

3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Fire Policy Committee finds that OHRT's conduct *does/does not* rise to the level to warrant revocation of his certification(s), and therefore recommends to the Board that OHRT's certifications be *revoked/not revoked*.

ACTION ITEM 2: (to be considered if denial and/or revocation are recommended)

According to OAR 259-009-0070(5) upon determination to proceed with the revocation and/or denial of a fire service professional's or instructor's certification based on discretionary disqualifying misconduct, the Fire Policy Committee and Board will determine an initial minimum period of ineligibility to re-apply for certification. The initial minimum period of ineligibility will range from 30 days to 7 (seven) years.

By vote, the Fire Policy Committee recommends a minimum initial period of ineligibility of time to be determined.



Jim Walker moved that the committee adopts the staff report as the record on which their recommendations are based. Dan Petersen seconded the motion. The motion carried unanimously.

By discussion and consensus:

- a. Identify and articulate the misconduct that is specific to this case.
Fourth Degree Assault is a discretionary disqualifying crime, for purposes of certification.
- b. The identified conduct **did not** violate the core value of Honesty.
- c. The identified conduct **did** violate the core value of Professionalism.
- d. The identified conduct **did** violate the core value of Justice.

By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

The FPC did not identify any aggravating circumstances.

The FPC identified the following conduct as mitigating circumstances:

- The letter from the Fire Chief.
- Successful completion of court requirements.
- The discipline he received from his employer, including his outreach to peers.
- The fact that he has taken responsibility for his actions.
- They also noted that the underlying Driving Under the Influence of Alcohol conduct would not have been within their jurisdiction for review.

Dan Petersen moved that the Committee finds that OHRT's conduct does rise to the level to warrant revocation of his certifications, and therefore recommends to the Board that OHRT's certifications be revoked. Jim Walker seconded the motion. The motion passed with a seven-to-three vote.

Jim Walker moved that the committee recommends to the board that OHRT's initial minimum period of ineligibility to re-apply for certification would be March 27, 2012. Dan Petersen seconded the motion. The motion passed with a seven-to-three vote.

11. Revocation Case Review for Heather Ritchie #20534 – Idanha-Detroit RFPD

Presented by Kristen Turley

ISSUE:

Should Heather RITCHIE's NFPA Driver and NFPA Fire Instructor I certifications be revoked based on a discretionary disqualifying criminal conviction defined in OAR 259-009-0070(4)?

BACKGROUND and OVERVIEW:

This case involves the following actions and processes related to RITCHIE:

RITCHIE served as a fire service professional from 2004 to 2009. During that time she obtained the following certifications:

NFPA Fire Instructor I was issued on October 6, 2005 and lapsed on December 31, 2010

NFPA Driver was issued on May 24, 2005 and lapsed on December 31, 2010

On or about October 2, 2009, Idanha-Detroit RFPD reported RITCHIE's discharge for cause. Along with the PAF the agency provided a copy of Marion County Sheriff's Office incident report for Aggravated Theft and Official Misconduct and a copy of Oregon Health Authority's Reportable Action, relating to her EMT certification.

On or about July 31, 2009, Chief REA reported to the Oregon Health Authority that RITCHIE had resigned on July 17, 2009.

Due to the pending criminal case associated with RITCHIE's discharge for cause, DPSST tracked the case for final disposition.

In June 2011, DPSST contacted Chief REA regarding the resignation he reported to the Health Authority. DPSST requested Chief REA to provide documentation showing that RITCHIE was discharged for cause and not allowed to resign. On or about July 27, 2011, DPSST left a voicemail to follow up on the request for documentation. To date DPSST has not received information to show that RITCHIE was discharged for cause. Therefore, DPSST is required to forward this matter to Fire Policy Committee based upon a discretionary disqualifying convictions.

*On or about March 17, 2011, RITCHIE was convicted of First Degree Aggravated Theft and First Degree Official Misconduct. **First Degree Aggravated Theft and First Degree Official Misconduct are discretionary disqualifying crimes, for purposes of certification.***

On or about September 23, 2011, DPSST contacted the Oregon Health Authority to obtain documentation related to any disciplinary action taken on RITCHIE's EMT certification. The Oregon Health Authority provided a copy of the Stipulated Agreement of Voluntary Suspension RITCHIE signed on September 30, 2009.

On September 21, 2011, TURLEY mailed RITCHIE a letter advising her that her case would be heard before the FPC and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration. As a policy, DPSST also provides a Stipulated Order Revoking and/or Denying Certification to individuals whose cases are to be heard by a Policy Committee. Some individuals elect to sign a Stipulated Order, which ends the denial or revocation process.

To date RITCHIE has not provided a response.

DISCUSSION:

Oregon law requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct or criminal convictions that require denial or revocation. For all other conduct or convictions, denial or revocation is discretionary, based on Policy Committee and Board review.

DISCRETIONARY DISQUALIFYING MISCONDUCT:

OAR 259-009-0070(4) specifies discretionary disqualifying conduct, which includes criminal convictions and falsification issues. Subsection 4 of the rule identifies a list of discretionary disqualifying crimes that must be reviewed by the FPC.

In OAR 259-009-0070(4)(b) The Department, through the Fire Policy Committee and Board, has defined core values that are integral to the fire service profession. These values are:

- (a) Category I: **Honesty**. Honesty includes straightforwardness of conduct; integrity, adherence to the facts; freedom from subterfuge or duplicity; truthfulness and sincerity.
- (b) Category II: **Professionalism**. Professionalism includes the conduct, aims, or qualities that characterize or mark a profession or a professional person; extreme competence in an occupation or pursuit.
- (c) Category III: **Justice**. Justice includes just treatment, the quality or characteristics of being just, impartial, or fair.

OAR 259-009-0070(4)(c) provides that, pursuant to ORS 181.662(3)(b), the Department has determined that, in the absence of a determination to the contrary by the Fire Policy Committee and Board, a Fire Service Professional or Instructor who has been convicted of the *[listed]* crimes has violated the core values of the fire service profession and may not be fit to receive or hold certification.

Staff Explanation: The above rule creates a presumption that if an individual has been convicted of any of the discretionary crimes, they have violated the core values of the fire service profession and may not be fit to receive or hold certification. To determine that the applicant may hold certification means that the FPC has determined that in the case of the subject individual, these convictions do not violate the core values.

SPECIFIC TO THIS CASE:

OAR 259-009-0070(4) specifies the discretionary disqualifying conviction of First Degree Aggravated Theft [ORS 163.160] as violating Category I, Honesty, based on the elements of the crime.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, OAR 259-009-0070(7)(d) provides that the FPC and Board will consider aggravating and mitigating circumstances including, but not limited to the following:

(A) When the conduct occurred in relation to the fire service professional's or instructor's service as a fire service professional or instructor (i.e., before, during, after);

(B) Whether the fire service professional or instructor served time in prison/jail; and if so, for how long;

(C) Whether restitution was involved, and if so, whether the fire service professional or instructor met all obligations;

(D) Whether the fire service professional or instructor was on parole or probation, and if so, when the parole or probation ended;

(E) Whether the fire service professional or instructor has been convicted of the same conduct more than once, and if so, over what period of time;

(F) Whether the conduct involved domestic violence;

(G) Whether the fire service professional or instructor self-reported the conduct;

(H) Whether the conduct involved dishonesty, fraud, deceit, or misrepresentation;

(I) Whether the conduct was prejudicial to the administration of justice;

(J) Whether the conduct adversely reflects on a fire service professional's or instructor's fitness to perform as a fire service professional or instructor; and

(K) Whether the conduct makes the fire service professional or instructor otherwise unfit to render effective service because of the agency's or public's loss of confidence that the fire service professional or instructor possesses the core values integral to the fire service profession.

STANDARD OF PROOF:

The standard of proof on this matter is a preponderance of evidence; evidence that is of greater weight and more convincing than the evidence offered in opposition to it; more probable than not.

ACTION ITEM 1:

Staff requests the Fire Policy Committee review the matter and make a recommendation to the Board whether or not to revoke RITCHIE's certifications by votes on the following:

1. By vote, the Fire Policy Committee *adopts/does not adopt* the Staff report as the record on which their recommendations are based.
2. By discussion and consensus:
 - a. Identify and articulate the **misconduct that is specific to this case**.
 - b. The identified conduct *did/did not* violate the core value of **Honesty**.
 - c. The identified conduct *did/did not* violate the core value of **Professionalism**.
 - d. The identified conduct *did/did not* violate the core value of **Justice**.
3. By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Fire Policy Committee finds that RITCHIE's conduct *does/does not* rise to the level to warrant revocation of her certifications, and therefore recommends to the Board that RITCHIE's certifications be *revoked/not revoked*.

ACTION ITEM 2: (to be considered if denial and/or revocation are recommended)

According to OAR 259-009-0070(5) upon determination to proceed with the revocation and/or denial of a fire service professional's or instructor's certification based on discretionary disqualifying misconduct, the Fire Policy Committee and Board will determine an initial minimum period of ineligibility to re-apply for certification. The initial minimum period of ineligibility will range from 30 days to 7 (seven) years.

By vote, the Fire Policy Committee recommends a minimum initial period of ineligibility of time to be determined.



Jeff Jones moved that the committee adopts the staff report as the record on which their recommendations are based. Johnny Mack seconded the motion. The motion carried unanimously.

By discussion and consensus:

- a. Identify and articulate the misconduct that is specific to this case.
First Degree Aggravated Theft and First Degree Official Misconduct are discretionary disqualifying crimes, for purposes of certification.
- b. The identified conduct **did** violate the core value of Honesty.
- c. The identified conduct **did** violate the core value of Professionalism.
- d. The identified conduct **did** violate the core value of Justice.

By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances.

The FPC did not identify any mitigating circumstances.

The FPC identified the following conduct as aggravating circumstances:

- During the criminal investigation her story changed with each interview.
- She only admitted to the conduct that she knew there was proof of.
- The planned conscious decision she made in applying for a loan.
- The conduct occurred while employed as a fire service professional.
- The jail time she was required to serve and her failure to pay restitution as ordered by the court.

Jim Walker moved that the Committee finds that RITCHIE's conduct does rise to the level to warrant revocation of her certifications, and therefore recommends to the Board that RITCHIE's certifications be revoked. Scott Stanton seconded the motion. The motion carried unanimously.

Johnny Mack moved that the committee recommends to the board that RITCIE's initial minimum period of ineligibility to re-apply for certification would be seven years. Jeff Jones seconded the motion. The motion carried unanimously.

12. Round Table/Staff Update

Director Gabliks reported:

- Fire Training Staff is preparing for the annual Winter Fire School, February 24-26, 2012. An estimated 400 students will be attending approximately 12 classes here at DPSST.
- The Fire Fighter Safety and Survival Symposium will be held at Chemeketa's new facility in Brooks, Oregon this year. They have also combined that with the OFIA annual conference.
- DPSST is continuing to work with the Oregon National Guard on a statewide exercise after the first of the year called Operation Vigilant Guard creating an Urban Search and Rescue Building Collapse training venue on the DPSST campus. The National Guard has a Civil Support Team which deals with chemical, biological, and hazmat related issues. They are developing the CERFP Program which is Enhanced Capabilities for Weapons of Mass Destruction, including medical support and some rescue components. DPSST is working in partnership with the Fire Marshal's USAR components and this will give the state a prop after this exercise is done that can be reused.
- DPSST is involved Alternative Fuel/Energy Programs.
 - In September DPSST hosted NFPA's Emergency Electric Vehicle Program Train-the-Trainer class with over 60 people in attendance.
 - DPSST is in the process of working to host a solar panel class. More information to follow when available.
 - Last month DPSST hosted National Institute of Standards and Technology (NIST) with their Fire Behavior Seminar with over 100 people in attendance and was very well received.
- The E-Forms project in Fire Certification has over 100 fire agencies participating. The process is slowly allowing people to move over to the electronic side.
- DPSST worked with the Office of the State Fire Marshal to connect hazmat grant funds with training needs in the state.

- A class was given in Rogue Valley for developing an Incident Management Team (IMT).
- Hazmat Awareness and Ops train-the-trainer kits have been purchased.
- A car fire prop has been purchased that can be taken regionally.
- Additional IMT dollars will be reallocated down to Rogue Valley and over to the coast.
- University of Oregon is developing their own IMT Type 3 so they can manage football games and Hayward Field (US Olympic Track and Field Timed Trials in 2012.)
- Budget: Fire Insurance Premium Tax dollars (a designated fund) have not been targeted yet for reduction by the Legislature. The criminal justice side has been asked to submit a 10.5% reduction in anticipation of what the general fund might look like in February 2012. That, to DPSST, is over a dozen employees that will be lost if the reduction is taken out of the criminal justice program.
- Fire is fully staffed and doing great work.
- Your time, input, and assistance are always appreciated.

The next scheduled meeting is February 22, 2012.

Meeting adjourned at 11:28 a.m.