

Telecommunications Policy Committee
Minutes
February 4, 2010

The Telecommunications Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on February 4, 2010 at the Oregon Public Safety Academy in Salem, Oregon. Chair Robert Poirier called the meeting to order at 10:02 a.m.

Attendees

Committee Members:

Robert Poirier, Public Safety Telecommunicators, Chair
Tamara Atkinson, Association of Public Safety Communications Officers
Pam Collett, Association of Public Safety Communications Officers
Mike Kee, Oregon Association Chiefs of Police
LeAnne Senger, Public Safety Telecommunicators
Joe Raade, Oregon Fire Medical Administrators' Association
Molly Cotter, Oregon State Police
Elizabeth Morgan, Emergency Medical Services and Trauma Systems
Tom Clemo, Oregon Fire Chiefs' Association

Committee Members Absent:

Rick Eisland, Oregon State Sheriff's Association

DPSST Staff:

Eriks Gabliks, Director
Carolyn Kendrick, Administrative Assistant
Marilyn Lorance, Standards and Certification Supervisor
Jan Myers, Training Coordinator



1. Minutes from November 5, 2009 Meeting

Approve meeting minutes from November 5, 2009.

See Appendix A for details

Joe Raade moved to approve the minutes from the November 5, 2009 Telecommunications Policy Committee meeting. LeAnne Senger seconded the motion. The motion carried unanimously.

2. OAR 259-008-0005(18) – Proposed Rule Change

Definition(s) – “Leave”
Presented by Marilyn Lorance

See Appendix B for details

With permission from the committee, staff gave a lengthy background for OAR 259-008-0005(18) which combined agenda item numbers 2 through 7 due to the fact that it was the same background information for each item number.

3. OAR 259-008-0020 – Proposed Rule Change

Personnel Action Reports related to “Leave”
Presented by Marilyn Lorance

See Appendix C for details

4. OAR 259-008-0030 – Proposed Rule Change

Extension of Time Limit related to “Leave”
Presented by Marilyn Lorance

See Appendix D for details

5. OAR 259-008-0060 – Proposed Rule Change

Public Safety Officer Certification related to “Leave”
Presented by Marilyn Lorance

See Appendix E for details

6. OAR 259-008-0064 – Proposed Rule Change

Maintenance of Certification related to “Leave”
Presented by Marilyn Lorance

See Appendix F for details

7. OAR 259-008-0067 – Proposed Rule Change

Lapsed Certification related to “Leave”
Presented by Marilyn Lorance

See Appendix G for details

To expedite the voting process Chair Robert Poirier combined agenda items 2-7 in one motion and one consensus.

Tom Clemo moved that the committee approve filing the proposed language for OAR 259-008-0005(18), OAR 259-008-0020, OAR 259-008-0030, OAR 259-008-0060, OAR 259-008-0064, and OAR 259-008-0067 with the Secretary of State as proposed rules and as permanent rules if no comments are received. Elizabeth Morgan seconded the motion. The motion carried unanimously.

It is the consensus of the committee that there is no significant fiscal impact on small businesses.

8. Edith A. Hernandez – DPSST #48079

Presented by Marilyn Lorance

See Appendix H for details

Chair Rob Poirier stated for the record that he was involved with the initial investigation and recused himself from voting.

- *Joe Raade moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Tom Clemo seconded the motion. The motion carried unanimously by all voting, with Chair Rob Poirier abstaining.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue.
 - b. The identified conduct did not involve **Dishonesty**
 - c. The identified conduct did involve a **Disregard for the Rights of Others**
 - d. The identified conduct did not involve **Misuse of Authority**
 - e. The identified conduct did involve **Gross Misconduct**
 - f. The identified conduct did involve **Misconduct**
 - g. The identified conduct did not involve **Insubordination**
- By discussion and consensus, the Telecommunications Policy Committee must consider any mitigating and aggravating circumstances. *It was the consensus of the committee that there were no mitigating circumstances. The committee listed the following as aggravating circumstances: it was a second offense; the letter of reprimand; the non-paid suspension; and the late reporting of the event to her supervisor.*
- *Tom Clemo moved that the Telecommunications Policy Committee finds HERNANDEZ's conduct does rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) be revoked. Mike Kee seconded the motion. The motion carried in a 6 to 1 vote, with Tamara Atkinson voting no and Chair Rob Poirier abstaining.*
- *Joe Raade moved that the Telecommunications Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be ten years from the date of revocation. With no second on the motion, the motion died.*
- *Elizabeth Morgan moved that the Telecommunications Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be five years from the date of revocation. Mike Kee seconded the motion. The motion carried unanimously by all voting, with Chair Rob Poirier abstaining.*

9. Additional Business

Presented by Eriks Gabliks

- Staff announced that the Law Enforcement Memorial ceremony is being held on May 6, 2010 the same day that the next Telecommunications Policy Committee meeting is scheduled. Committee members were invited to stay after the meeting to attend the memorial ceremony.
- The Oregon Fire Chiefs Conference is in April in Bend this year. The Incident Management Team Conference is also in April in Hood River.
- Regarding the incident that happened with the former director, staff reassured the committee that the work of the agency continues and DPSST is fully cooperating with the investigation.
- Staff recognized the new members to the committee: Mike Kee, Rick Eisland, and Pam Collett. We are still working with APCO/NENA to replace Jennifer Brinlee.
- The Legislative session has been alright so far, meaning there are no bills that effect DPSST.
- Budget: We are still working with the Ways and Means Committee regarding potential reductions at DPSST. At this point we don't believe there will be any additional reductions however, we are waiting for the forecast to be released and confirmation from the Legislature.
- We do have a five month backlog to get Deputy Sheriffs and Police Officers into the Basic Police Program, so we are asking for funding for two additional Basic Police classes. This should relieve some of the pressure off the backlog.
- The Telecommunications class is in session right now and is running at full capacity. We are not seeing a backlog in this area. The new, approved curriculum is being used. We are expecting feedback from the students and will adapt the curriculum from their comments.
- We are working with APCO/NENA, Police Chiefs, Fire Chiefs, Sheriffs, Department of Corrections, and the State Police on the leadership program which was taken away in previous budget reductions. Right now for the criminal justice side, including APCO/NENA, there is no academy at DPSST for newly hired supervisors and managers. One proposal being looked at is having a week long leadership program at DPSST where there would be keynote speakers and breakout sessions for different subject areas. This is still in transition however it is close to being locked in.

10. Next Telecommunications Policy Committee Meeting Date

May 6, 2010 at 10:00 a.m.

With no further business before the committee the meeting adjourned at 11:07 a.m.

Appendix A

Telecommunications Policy Committee Minutes (Draft) November 5, 2009

The Telecommunications Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on November 5, 2009 at the Oregon Public Safety Academy in Salem, Oregon. Chair Robert Poirier called the meeting to order at 10:02 a.m.

Attendees

Committee Members:

Robert Poirier, Public Safety Telecommunicators, Chair
Tamara Atkinson, Association of Public Safety Communications Officers
Brian Casey, Oregon Association Chiefs of Police
LeAnne Senger, Public Safety Telecommunicators
Joe Raade, Oregon Fire Medical Administrators' Association
Jack Jones, Oregon State Sheriff's Association
Jennifer Brinlee, Public Safety Telecommunicators
Bob Cozzie, Association of Public Safety Communications Officers

Committee Members Absent:

Molly Cotter, Oregon State Police
Tom Clemo, Oregon Fire Chiefs' Association
Elizabeth Morgan, Emergency Medical Services and Trauma Systems

Guests

Pam Collett, Association of Public Safety Communications Officers

DPSST Staff:

Eriks Gabliks, Deputy Director
Carolyn Kendrick, Administrative Assistant
Marilyn Lorange, Standards and Certification Supervisor
Bonnie Narvaez, Certification Coordinator
Scott Willadsen, Professional Standards Coordinator



11. Minutes from August 6, 2009 Meeting

Approve meeting minutes from August 6, 2009.

See Appendix A for details

Joe Raade moved to approve the minutes from the August 6, 2009 meeting. Bob Cozzie seconded the motion. The motion carried unanimously.

Chair Poirier introduced Pam Collette as a new Telecommunications Policy Committee member who will be taking Bob Cozzie's place at the next meeting in February.

12. OAR 259-001-0017 – Proposed Rule

Records Retention

Presented by Bonnie Narvaez

See Appendix B for details

Jack Jones moved to recommend filing the proposed language for OAR 259-001-0017 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Bob Cozzie seconded the motion. The motion carried unanimously.

It is the consensus of the committee that there is no significant fiscal impact on small businesses.

13. OAR 259-008-0040 – Proposed Rule

Period of Service

Presented by Bonnie Narvaez

See Appendix C for details

Jack Jones moved to recommend filing the proposed language for OAR 259-008-0040 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. LeAnne Senger seconded the motion. The motion carried unanimously.

It is the consensus of the committee that there is no significant fiscal impact on small businesses.

14. Jeff S. Yates – DPSST #40640

Presented by Scott Willadsen

See Appendix D for details

- *Joe Raade moved that the policy committee adopts the staff report as the record upon which its recommendations are based. Bob Cozzie seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue. *DUII and misleading of DPSST regarding DUII*
 - b. The identified conduct did not involve Dishonesty.
 - c. The identified conduct did involve a Disregard for the Rights of Others. *Drinking and choosing to drive*
 - d. The identified conduct did not involve Misuse of Authority.
 - e. The identified conduct did not involve Gross Misconduct.
 - f. The identified conduct did involve Misconduct. *DUII only*

- g. The identified conduct ***did not*** involve **Insubordination**. *No evidence*
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee stated as mitigating circumstances Yates' continued positive employment, lack of violations, support of his Sheriff, and Yates' intention towards intermediate certification which proves his career goals. No aggravating circumstances were noted.*
 - *Jack Jones moved that the policy committee finds YATES' conduct does not rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that his certification(s) not be revoked. Tami Atkinson seconded the motion. The motion carried unanimously*

15. Discussion – Certification Matrix

Presented by Bob Cozzie

See Appendix E for details

This matrix is in the beginning stages of development. The Telecommunications workgroup is a subcommittee of the larger Certification Matrix Workgroup which encompasses all disciplines. The Telecommunications Policy Committee is pleased with the work so far and looks forward to seeing the finished product.

16. Additional Business

Presented by Eriks Gabliks

- There will be a change in a few of Telecommunications Policy Committee members. New members will be officially approved at the next Board meeting in January.
- Regarding the perception of falsification of training documents submitted to DPSST by Washington County Consolidated Communications Agency (WCCCA): The allegation was that the training coordinator had actually been signing training documents for all including staff. Washington County was very prompt in their investigation and looked at all the issues. The training coordinator did not hold a DPPST certification which meant that this issue could not come before this committee as a revocation/denial case. DPSST believes the agency took the corrective actions necessary to remedy the situation. There is no sense in pursuing a civil penalty because the agency (WCCCA) took the right steps once they were made aware of the situation.
- DPSST has developed, in partnership with OHSU through our physician advisor, an H1N1 card that was sent out to 9-1-1 centers as a discussion point. We do not set policy for your agencies, however help was requested from a number of agencies. The card was really just a starting point for discussion to be had with PSAPs between EMS fire rescue responders as well as their physician advisors. This has gotten strong positive feedback.
- DPSST has been requested by our Legislative Fiscal Officer to submit an additional 10% budget reduction to take place after the first of the year ***if*** necessary. The reduction

would happen in two 5% increments. This only impacts Criminal Fines and Assessments not the 9-1-1 Telephone Tax. At this point the Telecommunications Program is not affected.

17. Next Telecommunications Policy Committee Meeting Date

Thursday, February 4, 2010 at 10:00 a.m.

With no further business before the committee the meeting adjourned at 11:09 a.m.

Appendix B

Department of Public Safety Standards and Training Memo

Date: January 7, 2010

To: Telecommunications Policy Committee

From: Bonnie Narváez – Rules Coordinator

Subject: OAR 259-008-0005(18) - Proposed Administrative Rule Change
Definition(s) – “Leave”

Issue: The Oregon Department of Justice has recommended that the Department consider amending the language relating to “leave,” “leave of absence,” “special assignment leave” or “on leave” in administrative rule to ensure consistency with the provisions of the statutes that govern how leaves impact certification. Staff is recommending clarification of the term “leave” in OAR 259-008-0005.

For ease of review, only the relevant portion(s) of the revised text is included. The following revised language contains recommended deletions (~~striketrough text~~) and additions (**bold and underlined text**):

259-008-0005

Definitions

* * *

(18) "~~Leave of absence~~" means: **a** a leave granted by the employing agency from the public safety officer's certifiable position as defined in ORS 181.610(3), (5), (9), (13), (14), (18), for more than 90 days but less than two and one half years, **to a law enforcement officer from a law enforcement unit; or b) a leave granted to a telecommunicator or emergency medical dispatcher from a public or private safety agency.**

(19) "Middle Manager" means a law enforcement officer, telecommunicator, or emergency medical dispatcher occupying a position between first level supervisor and department head position and is primarily responsible for management and/or command duties. A middle manager position does not include a position with limited, or acting middle management duties.

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

(21) "Parole and Probation Officer" means

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

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

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

(b) Any officer who:

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

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

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

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

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

(22) "Police Officer" means an officer or member of a law enforcement unit who is employed full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide enhanced law enforcement services under ORS 451.010, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission, or the Governor, or a member of the Department of State Police who is responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security; and any full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.651.

(23) "Public or private safety agency" means any unit of state or local government, a special purpose district or a private firm which provides, or has authority to provide, police, ambulance or emergency medical services.

(24) "Public safety personnel" and "Public safety professional" include corrections officers, emergency medical dispatchers, parole and probation officers, police officers, and telecommunicators.

(25) "Recall" means the administrative inactivation of a certificate issued by the Department until maintenance requirements are met and certification is restored.

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

(27) "Reimbursement" is the money allocated from the Police Standards and Training Account, established by ORS 181.690, to a law enforcement unit meeting the requirements of these regulations to defray the costs of officer salaries, relief duty assignments, and other expenses incurred while officers attend approved training courses certified by the Department.

(28) "Reserve Officer" means an officer or member of a law enforcement unit:

(a) Who is a volunteer or who is employed less than full time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, Indian reservation, the Criminal Justice

Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or who is a member of the Department of State Police;

(b) Who is armed with a firearm; and

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

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

~~(30) "Special assignment leave" is leave from the law enforcement officer's certifiable position, as defined in ORS 181.610(3), (5), (9), (13), (14), (18), for more than 90 days but less than two and one-half years, for such duties as determined by the law enforcement unit administrator. Examples of such leave include, but are not limited to, strategic planning, budget preparation, special task force, or other similar duties.~~

~~(31)~~ **(30)** "Staff" are those employees occupying full-time, part-time, and/or temporary positions with the Department.

~~(32)~~ **(31)** "Telecommunicator" means any person employed as an emergency telephone worker as defined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing and transmitting public safety information received through a 9-1-1 emergency reporting system as defined in ORS 401.720.

~~(33)~~ **(32)** "Temporary employment" means employment that lasts no more than 90 consecutive calendar days and is not permanent.

~~(34)~~ **(33)** "The Act" refers to the Public Safety Standards and Training Act (ORS 181.610 to 181.715).

~~(35)~~ **(34)** "Waiver" means to refrain from pressing or enforcing a rule.

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0005 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0005 with the Secretary of State as a permanent rule if no comments are received.

ACTION ITEM 3: Determine whether there is a significant fiscal impact on small businesses.

Appendix C

Department of Public Safety Standards and Training Memo

Date: January 7, 2010

To: Telecommunications Policy Committee

From: Bonnie Narváez - Rules Coordinator

Subject: OAR 259-008-0020 - Proposed Administrative Rule Change
Personnel Action Reports related to "Leave"

Issue: The Oregon Department of Justice has recommended that the Department consider amending the language relating to "leave," "leave of absence," "special assignment leave" or "on leave" in administrative rule to ensure consistency with the provisions of the statutes that govern how leaves impact certification. Staff is recommending clarification of the term "leave" in OAR 259-008-0020.

For ease of review, only the relevant portion(s) of the revised text is included. The following revised language contains recommended deletions (~~striketrough text~~) and additions (**bold and underlined text**):

259-008-0020

Personnel Action Reports

* * *

(2) Whenever public safety personnel resign, retire, or terminate employment, are promoted, demoted, discharged, deceased, ~~take a~~ **is on** leave ~~of absence~~, or transfer within a law enforcement unit, or private or public safety agency, the department head shall report this information to the Department on a Personnel Action Report (DPSST Form F-4) within ten (10) business days of the action.

(3) All applicable sections of the Personnel Action Report (DPSST Form F-4) must be completed and signed by the department head or an authorized representative.

(4) All applicants shall furnish to the Department on a Personnel Action Report (DPSST Form F-4) their social security number. The social security number is used to accurately identify the applicant during computerized criminal history (CCH) and Department record checks and to verify information provided by public safety officers under the Act in connection with revocation proceedings.

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0020 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0020 with the Secretary of State as a permanent rule if no comments are received.

ACTION ITEM 3: Determine whether there is a significant fiscal impact on small businesses.

Appendix D

Department of Public Safety Standards and Training Memo

Date: January 7, 2010

To: Telecommunications Policy Committee

From: Bonnie Narváez
Rules Coordinator

Subject: OAR 259-008-0030 - Proposed Administrative Rule Change
Extension of Time Limit related to "Leave"

Issue: The Oregon Department of Justice has recommended that the Department consider amending the language relating to "leave," "leave of absence," "special assignment leave" or "on leave" in administrative rule to ensure consistency with the provisions of the statutes that govern how leaves impact certification. Staff is recommending clarification of the term "leave" in OAR 259-008-0030.

The following revised language contains recommended deletions (~~strikethrough text~~):

259-008-0030

Extension of the Time Limit for Course Completion

The Department may grant an extension of time limit for completion of any course required by OAR 259-008-0025 upon presentation of evidence by a law enforcement unit or public or private safety agency that a law enforcement officer, telecommunicator, or emergency medical dispatcher was unable to complete the required course within the time limit prescribed due to a ~~leave of absence for illness, injury, military service, special duty assignment, or any other~~ reasonable cause as determined by the Department, except where such extensions are limited by ORS 181.652(2), 181.653(2), 181.665(2), and 181.644(2).

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0030 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0030 with the Secretary of State as a permanent rule if no comments are received.

ACTION ITEM 3: Determine whether there is a significant fiscal impact on small businesses.

Appendix E

Department of Public Safety Standards and Training Memo

Date: January 7, 2010

To: Telecommunications Policy Committee

From: Bonnie Narváez - Rules Coordinator

Subject: OAR 259-008-0060 - Proposed Administrative Rule Change
Public Safety Officer Certification related to "Leave"

Issue: The Oregon Department of Justice has recommended that the Department consider amending the language relating to "leave," "leave of absence," "special assignment leave" or "on leave" in administrative rule to ensure consistency with the provisions of the statutes that govern how leaves impact certification. Staff is recommending clarification of the term "leave" in OAR 259-008-0060 as well as a modification to the rule to address USERRA implications.

For ease of review, only the relevant portion(s) of the revised text is included. The following revised language contains recommended deletions (~~striketrough text~~) and additions (**bold and underlined text**):

259-008-0060

Public Safety Officer Certification

* * *

(11) Experience/Employment:

(a) Experience acquired as a corrections, parole and probation, or police officer employed full time with municipal, county, state, or federal agencies, may be accepted if the experience is in the field in which certification is requested and is approved by the Department. For the purpose of this rule, creditable service time for experience will cease to accrue under the following circumstances:

(A) When an individual is employed in a casual, seasonal, or temporary capacity;

(B) When an individual is on "leave." ~~This includes, but is not limited to, medical leave, a leave of absence or military leave;~~

(C) Notwithstanding section (B) of this rule, a public safety professional may submit a written request for credit for military time served upon return from a **his or her** military **duty** leave. ~~The Department may approve credit for military time served if the public safety professional's military duties are determined to be equivalent to the duties the public safety professional was performing prior to the public safety professional's military leave.~~ **The Department will evaluate each written request to determine whether** ~~Any~~ **an individual is eligible for any** credit received for time served ~~will be at the discretion of the Department.~~

(D) From the date a public safety professional's certification is recalled until it is reinstated by the Department;

(E) When a public safety professional fails to obtain Basic certification within a mandated timeframe and is prohibited from being employed as a public safety professional;

(b) Experience acquired as a telecommunicator or emergency medical dispatcher employed with a public or private safety agency may be accepted if the experience is in the field in which certification is requested and is approved by the Department.

(c) Experience acquired as a certified part-time telecommunicator, emergency medical dispatcher as defined in OAR 259-008-0005(12) and (32) respectively, or part time parole and probation officer, as defined under 259-008-0005(20) and (21) and 259-008-0066, shall count on a pro-rated basis.

(d) Police, corrections, parole and probation, telecommunicator, or emergency medical dispatch experience in fields other than that in which certification is requested may receive partial credit when supported by job descriptions or other documentary evidence. In all cases, experience claimed is subject to evaluation and approval by the Department.

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0060 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0060 with the Secretary of State as a permanent rule if no comments are received.

ACTION ITEM 3: Determine whether there is a significant fiscal impact on small businesses.

Appendix F

Department of Public Safety Standards and Training Memo

Date: January 7, 2010

To: Telecommunications Policy Committee

From: Bonnie Narváez - Rules Coordinator

Subject: OAR 259-008-0064 - Proposed Administrative Rule Change
Maintenance of Certification related to "Leave"

Issue: The Oregon Department of Justice has recommended that the Department consider amending the language relating to "leave," "leave of absence," "special assignment leave" or "on leave" in administrative rule to ensure consistency with the provisions of the statutes that govern how leaves impact certification. Staff is recommending clarification of the term "leave" in OAR 259-008-0064.

For ease of review, only the relevant portion(s) of the revised text is included.
The following revised language contains recommended deletions (~~striketrough text~~):

259-008-0064

Maintenance of Certification for Telecommunicators and Emergency Medical Dispatchers

* * *

(8) Notwithstanding paragraph (6) of this subsection, the failure of a telecommunicator or Emergency Medical Dispatcher to complete required maintenance training will not result in recall of certification if the telecommunicator or Emergency Medical Dispatcher is on ~~authorized leave of absence~~ from a public or private safety agency;

(9) The Department may grant an extension of time for completion of any required training or in-service training based upon good cause. A written request for an extension of time must be submitted to the Department by the agency head.

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0064 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0064 with the Secretary of State as a permanent rule if no comments are received.

ACTION ITEM 3: Determine whether there is a significant fiscal impact on small businesses.

Appendix G

Department of Public Safety Standards and Training Memo

Date: January 7, 2010

To: Telecommunications Policy Committee

From: Bonnie Narváez - Rules Coordinator

Subject: OAR 259-008-0067 - Proposed Administrative Rule Change
Lapsed Certification related to "Leave"

Issue: The Oregon Department of Justice has recommended that the Department consider amending the language relating to "leave," "leave of absence," "special assignment leave" or "on leave" in administrative rule to ensure consistency with the provisions of the statutes that govern how leaves impact certification. Staff is recommending clarification of the term "leave" in OAR 259-008-0067.

The following revised language contains recommended deletions (~~striketrough text~~) and additions (**bold and underlined text**):

259-008-0067

Lapsed Certification

(1)(a) The certification of any police officer, corrections officer, parole and probation officer who does serve as a police officer, corrections officer, parole and probation officer, or any certified reserve officer who is not utilized as a certified reserve officer, for any period of time in excess of three consecutive months is lapsed. Upon reemployment as a police officer, corrections officer, parole and probation officer, or recommencing service as a reserve officer, the person whose certification has lapsed may apply for certification in the manner provided in ORS 181.610 to 181.712.

(b) Notwithstanding paragraph (a) of this subsection, the certification of a police officer, corrections officer, parole and probation officer or certified reserve officer does not lapse if the officer:

~~(A) Is **is** on leave from a law enforcement unit;~~

~~(B) Is an honorably retired police officer who meets the requirements established by the Department for maintaining certification.~~

(2) The certification of any telecommunicator or emergency medical dispatcher who is not utilized as a telecommunicator or emergency medical dispatcher for any period of time in excess of 12 consecutive months, unless the telecommunicator or emergency medical dispatcher is on

leave from a public or private safety agency, is lapsed. Upon reemployment as a telecommunicator or emergency medical dispatcher, the person whose certification has lapsed may apply for certification in the manner provided in ORS 181.610 to 181.712.

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0067 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0067 with the Secretary of State as a permanent rule if no comments are received.

ACTION ITEM 3: Determine whether there is a significant fiscal impact on small businesses.

Appendix H

Department of Public Safety Standards and Training Memorandum

DATE:February 4, 2010

TO:Telecommunications Policy Committee

FROM:Theresa King - Professional Standards Coordinator

SUBJECT:Edith A. Hernandez DPSST #48079

ISSUE:

Should Edith HERNANDEZ's Basic and Intermediate Telecommunications certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0010, and as referenced in OAR 259-008-0070?

BACKGROUND and OVERVIEW

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

On February 5, 2006, HERNANDEZ was arrested for DUII and subsequently received a Diversion.

On March 12, 2007, HERNANDEZ was hired by the Lebanon Police Department as a dispatcher.

On March 3, 2008, HERNANDEZ was granted a Basic Telecommunications Certificate.

On March 18, 2009, HERNANDEZ was granted an Intermediate Telecommunications Certificate.

On May 24, 2009, HERNANDEZ was arrested for DUII and subsequently received a conviction.

In November 2009, DPSST mailed HERNANDEZ a letter advising her that her case would be heard before the Telecommunications Policy Committee and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent certified mail.

In December, HERNANDEZ and her employer provided mitigating circumstances for the Policy Committee's consideration.

DISCUSSION:

ORS. 181.640 requires that DPSST, through its Board, identify in Oregon Administrative Rules (OAR) the conduct that requires denial or revocation (mandatory disqualifying misconduct). For all other misconduct, denial or revocation is discretionary, based on Policy Committee and Board review. (ref. OAR 259-008-0070(4), (9))

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. [Ref ORS 183.450(5)]

DISCRETIONARY DISQUALIFYING MISCONDUCT

OAR 259-008-0070 specifies discretionary disqualifying misconduct as:

(4)(a) (A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640; or

(C) The public safety professional or instructor has been convicted of an offense, listed in subsection (4), punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification;

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public.

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office.

(D) Category IV: 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 or instructor would observe in a similar circumstance;

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; or

(F) Category VI: 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.

POLICY COMMITTEE AND BOARD REVIEW:

OAR 259-008-0070(9)(d) requires the Policy Committee and the Board to consider mitigating and aggravating circumstances, including, but not limited to:

- (A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);
- (B) If the misconduct resulted in a conviction:
 - (i) Whether it was a misdemeanor or violation;
 - (ii) The date of the conviction(s);
 - (iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;
 - (iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;
 - (v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;
 - (vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire;
 - (vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;
- (C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;
- (D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;
- (E) Whether the misconduct involved domestic violence;
- (F) Whether the public safety professional or instructor self reported the misconduct;
- (G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;
- (H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor;
- (I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

ACTION ITEM 1:

Staff requests the Telecommunications Policy Committee review the matter and make a recommendation to the Board whether or not to revoke HERNANDEZ's Basic and Intermediate Telecommunication certifications based on violation of the established moral fitness standards:

1. By vote, the Telecommunications Policy Committee *adopts/does not adopt* the Staff report as the record upon which its recommendations are based.
2. By discussion and consensus:
 - a. Identify the conduct that is at issue.

- b. The identified conduct *did/did not* involve **Dishonesty**.
 - c. The identified conduct *did/did not* involve a **Disregard for the Rights of Others**.
 - d. The identified conduct *did/did not* involve **Misuse of Authority**.
 - e. The identified conduct *did/did involve* **Gross Misconduct**.
 - f. The identified conduct *did/did not* involve **Misconduct**.
 - g. The identified conduct *did/did not* involve **Insubordination**.
3. By discussion and consensus, the Telecommunications Policy Committee must identify and consider any mitigating and aggravating circumstances.
 4. By vote, the Telecommunications Policy Committee finds HERNANDEZ's conduct *does/does not* rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) *be revoked/not be revoked*.

ACTION ITEM 2 (required only if the Committee recommends to the Board that certification be denied or revoked):

Under OAR 259-008-0070(4)(d), upon determining to proceed with the denial or revocation of a public safety professional's certification based on discretionary disqualifying misconduct, the Policy Committee and Board must determine an *initial* minimum period of ineligibility to apply for certification, using the following ineligibility grid:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

By vote, the Telecommunications Policy Committee recommends to the Board that the minimum period of ineligibility to reapply for certification will be *identify period of time* from the date of revocation.