

Telecommunications Policy Committee
Minutes
May 4, 2011

The Telecommunications Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on May 4, 2011 at the Oregon Public Safety Academy in Salem, Oregon. Chair Robert Poirier called the meeting to order at 11:02 a.m.

Attendees

Committee Members:

Robert Poirier, Public Safety Telecommunicators, Chair
Tamara Atkinson, Association of Public Safety Communications Officers
Rachel Brudnock, Telecommunicator
Pam Collett, Association of Public Safety Communications Officers
Daniel Coulombe, Oregon Association Chiefs of Police
Richard Culley, Oregon State Police
Rick Eisland, Oregon State Sheriffs' Association
Corinna Jacobs, Telecommunicator
Rich Leipfert, Oregon Fire Chiefs Association
Elizabeth Morgan, Emergency Medical Services and Trauma Systems
Joe Raade, Oregon Fire Medical Administrators Association

Guests

Indy Robertson
James Lucas

DPSST Staff:

Eriks Gabliks, Director
Carolyn Kendrick, Administrative Assistant
Marilyn Lorange, Standards and Certification Supervisor
Theresa King, Professional Standards Investigator/Coordinator
Linsay Bassler, Certification Coordinator



1. Minutes from February 2, 2011 Meeting

Approve meeting minutes from February 2, 2011.

See Appendix A for details.

Rick Eisland moved to approve the minutes from the February 2, 2011 Telecommunications Policy Committee meeting. Dan Coulombe seconded the motion. The motion carried unanimously.

2. OAR 259-008-0010 and OAR 259-008-0011

Presented by Linsay Bassler

See Appendix B for details.

Corrina Jacobs moved that the policy committee recommend filing the proposed language for OAR 259-008-0010 and OAR 259-008-0011 with the Secretary of State as proposed rules and as permanent rules if no comments are received. Rick Eisland seconded the motion. The motion carried unanimously.

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

3. Nicholas J. Coker, Seaside Police Department – DPSST #48176

Presented by Theresa King

See Appendix C for details.

- *Rick Eisland moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Joe Raade seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue: *Viewing of inappropriate material while on duty and untruthfulness.*
 - b. The identified conduct did involve **Dishonesty based on lies in COKER's letter and when speaking to the Chief.**
 - c. The identified conduct did not involve a **Disregard for the Rights of Others**
 - 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 based on viewing inappropriate material at work, which is especially grievous being a lead worker.**
 - g. The identified conduct did not involve **Insubordination**
- By discussion and consensus, the Telecommunications Policy Committee must consider any mitigating and aggravating circumstances. *The committee noted as a possible mitigating circumstance the fact it took two years for the incident to be reported. If the photo was offensive, it should have been reported earlier. The committee stated as aggravating the fact that COKER violated the separation agreement by speaking negatively about the department.*
- *Rick Eisland moved that the Telecommunications Policy Committee finds COKER's conduct does rise to the level to warrant the revocation of his certification(s), and therefore recommends to the Board that these certification(s) be revoked. Dan Coulombe seconded the motion. The motion carried unanimously.*
- *Rachel Brudnock moved that the Telecommunications Policy Committee recommend to the Board that COKER's misconduct encapsulated all of the categories noted above*

with a focus on the highest end of the Dishonesty category a lifetime disqualifier; COKER may never reapply for certification. Rich Leipfert seconded the motion. The motion carried unanimously.

4. Belinda DeVaney, Washington County 911 – DPSST 43457

Presented by Theresa King

See Appendix D for details.

- *Rick Eisland moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Elizabeth Morgan seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: *Falling asleep while on duty.*
 - b. The identified conduct did not involve **Dishonesty**.
 - c. The identified conduct did involve a **Disregard for the Rights of Others based on failure to serve and protect the public and endangerment of officers while sleeping on the job.**
 - d. The identified conduct did not involve **Misuse of Authority**.
 - e. The identified conduct did involve **Gross Misconduct based on failure to perform duties. Sleeping on the job creates a danger to the officers she is responsible for while on duty.**
 - f. The identified conduct did involve **Misconduct. It is agency expectation that employees stay awake on the job.**
 - g. The identified conduct did involve **Insubordination based on repeated instances of her falling asleep on duty and DeVANNEY's refusal to comply with disciplinary letters and coaching regarding failure to stay awake.**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances the facts that DeVANNEY was clearly coached through disciplinary letters—she didn't comply, DeVEANY blamed administration for targeting her because of a worker's compensation claim, and that the agency tried very hard to help correct her behavior. No mitigating circumstances were identified.*
- *Elizabeth Morgan moved that the Telecommunications Policy Committee finds DeVANNEY'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. Rachel Brudnock seconded the motion. The motion carried unanimously.*
- *Rachel Brudnock moved that the Telecommunications Policy Committee recommend to the Board that DeVANNEY's misconduct encapsulated all but two of the categories noted above with a focus on the highest end of the Disregard for Rights of Others*

category; DeVANEY may reapply for certification 15 years from the date of revocation. Pam Collett seconded the motion. The motion failed in a 5 to 6 vote with Rob Poirier, Rachel Brudnock, Pam Collett, Dan Coulombe, and Rick Eisland voting yes.

- *After further discussion, Elizabeth Morgan moved that the Telecommunications Policy Committee recommend to the Board that DeVANEY's misconduct encapsulated all but two of the categories noted above averaging the highest end of said categories; DeVANEY may reapply for certification 10 years from the date of revocation. Joe Raade seconded the motion. The motion carried in a 10 to 1 vote with Pam Collett voting no.*

5. **Indy Robertson, American Medical Response Northwest – DPSST #27509**

Presented by Theresa King

See Appendix E for details.

Rob Poirier noted for the record that in 1993-94 he was a co-worker (not supervisor) with ROBERTSON.

Richard Culley noted for the record that he was ROBERTSON's Field Training Officer and did her background.

The committee *convened in Executive Session* at 12:00 p.m. to discuss information exempt from public disclosure and *reconvened in Regular Session* at 12:10 p.m. to take action in the matter of Indy ROBERTSON.

- *Corrina Jacobs moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Rich Leipfert seconded the motion. The motion carried unanimously.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: **DUII and history of DUII**
 - b. The identified conduct did not involve **Dishonesty**.
 - c. The identified conduct did involve a **Disregard for the Rights of Others: driving while intoxicated**.
 - d. The identified conduct did not involve **Misuse of Authority**.
 - e. The identified conduct did involve **Gross Misconduct based on the presumptive category in OAR for DUII based on the elements of the crime**.
 - f. The identified conduct did involve **Misconduct based on violation of the law**.
 - g. The identified conduct did not involve **Insubordination**
- By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as mitigating circumstances successful treatment as identified by ROBERTSON's doctors and*

counselors, her consistent sobriety, and the fact ROBERTSON has very much support from her co-workers and agency. The aggravating circumstances noted by the committee are the facts that ROBERTSON has been in treatment before and this is her second DUII.

- *Rich Liepfert moved that the Telecommunications Policy Committee finds ROBERTSON's conduct does not rise to the level to warrant the revocation of her certification(s), and therefore recommends to the Board that these certification(s) not be revoked. Rick Eisland seconded the motion. The motion carried unanimously.*

6. Tiffany Spaulding, Lincoln County Communications Agency – DPSST #50341

Presented by Theresa King

See Appendix F for details.

Tami Atkinson recused herself from voting on this case.

- *Pam Collett moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Rachel Brudnock seconded the motion. The motion carried unanimously with Tami Atkinson abstaining.*
- By discussion and consensus:
 - a. Identify the conduct that is at issue, specific to this case: *Dereliction of duty by not using resources correctly to notify the public.*
 - b. The identified conduct did not involve Dishonesty.
 - c. The identified conduct did involve a Disregard for the Rights of Others based on failure to competently perform duty.
 - d. The identified conduct did not involve Misuse of Authority.
 - e. The identified conduct did involve Gross Misconduct based on act, or failure to act, which creates a danger or risk to persons.
 - f. The identified conduct did involve Misconduct.
 - g. The identified conduct did not involve Insubordination.
- By discussion and consensus, the Telecommunications Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee identified as a mitigating circumstance the fact that SPAULDING had no intention of hurting anyone.*
- *Rick Eisland moved that the Telecommunications Policy Committee finds SPAULDING's conduct does rise to the level to warrant the revocation of her certifications, and therefore recommends to the Board that these certifications be revoked. Pam Collett seconded the motion. The motion carried in a 5 to 4 vote with*

Rachel Brodnuck, Pam Collett, Dan Coulombe, Rick Eisland, Elizabeth Morgan voting yes. Tami Atkinson and Rob Poirier abstained from voting.

- *Rachel Brodnock moved that the Telecommunications Policy Committee recommend to the Board that SPAULDING's misconduct encapsulated three of the six categories noted above with a focus on the lowest end of Disregard for the Rights of Others; SPAULDING may reapply for certification 5 years from the date of revocation. Dan Coulombe seconded the motion. The motion carried in an 8 to 2 vote with Joe Raade and Rick Eisland voting no. Tami Atkinson abstained from voting.*

7. Discussion Item: Certification Workgroup

Presented by Linsay Bassler

See Appendix H for details.

The committee thanked Tami Atkinson and the sub-workgroup for all the hard work on the certification matrix. Staff stated that the product completed by the Telecommunications discipline met the intent of the larger certification group. Feedback and direction for the workgroup in the next phase, which includes implementation, would be greatly appreciated.

Once the portfolio is put together (by the Telecommunicator) and signed off by the Director of the agency it will come before the Telecommunications Policy Committee for recommendation for certification. Staff suggested the policy committee consider creating a screening subcommittee once the certification review process begins.

Staff requested additional participants for the sub-workgroup. Chair Poirier suggested a document stating the time commitment and what the workgroup is looking for in the implementation process could be placed on the APCO/NENA listserv.

8. Additional Business

Staff shared that the classes funded in partnership with APCO/NENA have been very well received. There are about a dozen including Stress Management for the Telecommunicator, Management, and Tactical Dispatch classes. The feedback has been very positive.

9. Next Telecommunications Policy Committee Meeting Date

August 3, 2011 at 11:00 a.m.

With no further business before the committee, the meeting adjourned at 1:25 p.m.

Appendix A

Telecommunications Policy Committee Minutes (Draft) February 2, 2011

The Telecommunications Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on February 2, 2011 at the Oregon Public Safety Academy in Salem, Oregon. Chair Robert Poirier called the meeting to order at 11:02 a.m.

Attendees

Committee Members:

Robert Poirier, Public Safety Telecommunicators, Chair
Tamara Atkinson, Association of Public Safety Communications Officers
Rachel Brudnock, Telecommunicator
Pam Collett, Association of Public Safety Communications Officers
Molly Cotter, Oregon State Police
Daniel Coulombe, Oregon Association Chiefs of Police
Corinna Jacobs, Telecommunicator
Elizabeth Morgan, Emergency Medical Services and Trauma Systems
Joe Raade, Oregon Fire Medical Administrators Association
Committee Members Absent:
Rick Eisland, Oregon State Sheriffs' Association

DPSST Staff:

Eriks Gabliks, Director
Carolyn Kendrick, Administrative Assistant
Marilyn Lorange, Standards and Certification Supervisor
Theresa King, Professional Standards Investigator/Coordinator
Linsay Bassler, Certification Coordinator

1. Minutes from November 4, 2010 Meeting

Approve meeting minutes from November 4, 2010.

See Appendix A for details

Joe Raade moved to approve the minutes from the November 4, 2010 Telecommunications Policy Committee meeting. Elizabeth Morgan seconded the motion. The motion carried unanimously.

Chair Poirier thanked staff for pulling the requested information regarding recommended revocation periods together on such short notice.

2. Historical Summary of Recommended Revocation Periods

Presented by Theresa King

See Appendix B for details.

Staff summarized the historical information and noted the only other case that was not recommended for lifetime revocation regarding dishonesty was a case heard by the Police Policy Committee. Staff stated it was the second case reviewed under the current voting requirements. The purpose of the information shared is to give background on voting history.

3. Deborah Hackney – DPSST #29627

Presented by Theresa King
See Appendix C for details

- *Tami Atkinson moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Joe Raade seconded the motion. The motion carried unanimously.*
- *By discussion and consensus:*
 - a. *Identify the conduct that is at issue.*
 - b. *The identified conduct **did** involve **Dishonesty based on lies regarding placing the call and later admitting to not doing so, and about not receiving appropriate training.***
 - c. *The identified conduct **did** involve a **Disregard for the Rights of Others based on HACKNEY not feeding the inmates.***
 - d. *The identified conduct **did** involve **Misuse of Authority based on loss of public trust and potentially harming others by withholding meals.***
 - e. *The identified conduct **did** involve **Gross Misconduct based on gross deviation of policy by not sending the APB to California and withholding meals.***
 - f. *The identified conduct **did** involve **Misconduct based on violation of the law.***
 - g. *The identified conduct **did** involve **Insubordination based on admission of disobeying directives and sustained allegation of disobedience and insubordination.***
- *By discussion and consensus, the Telecommunications Policy Committee must consider any mitigating and aggravating circumstances. **The committee noted HACKNEY's completion of rehabilitation as a mitigating circumstance. The committee stated as aggravating circumstances the long history of issues, and lying to her supervisor after rehabilitation, which shows a continued pattern of behavior.***
- *Elizabeth Morgan moved that the Telecommunications Policy Committee finds HACKNEY'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. Rachel Brudnock seconded the motion. The motion carried unanimously.*
- *Rachel Brudnock moved that the Telecommunications Policy Committee recommend to the Board that HACKNEY's misconduct encapsulated all of the categories noted above with a focus on the highest end of the Dishonesty category a lifetime disqualifier; HACKNEY may never reapply for certification. Joe Raade seconded the motion. The motion carried unanimously.*

4. Janna Nissen – DPSST #46444

Presented by Theresa King
See Appendix D for details.

Chair Rob Poirier recused himself from voting on this case.

• *Corrina Jacobs moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Elizabeth Morgan seconded the motion. The motion carried unanimously by all voting with Rob Poirier abstaining.*

• By discussion and consensus:

a. Identify the conduct that is at issue, specific to this case.

b. The identified conduct *did* involve **Dishonesty in the reporting of a warrant to her supervisor.**

c. The identified conduct *did* involve a **Disregard for the Rights of Others based on failure to serve and protect the public and endangerment of officers with lack of information and delay in dispatch.**

d. The identified conduct *did not* involve **Misuse of Authority.**

e. The identified conduct *did* involve **Gross Misconduct based on repeated pattern of failure to perform duties.**

f. The identified conduct *did* involve **Misconduct.**

g. The identified conduct *did* involve **Insubordination based on refusal/failure to fulfill work assignments and failure to complete status checks.**

• By discussion and consensus, the Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee did not identify any mitigating circumstances. The above issues were noted as aggravating by the committee.*

• *Tami Atkinson moved that the Telecommunications Policy Committee finds NISSEN'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. Joe Raade seconded the motion. The motion carried unanimously with Rob Poirier abstaining.*

• *Tami Atkinson moved that the Telecommunications Policy Committee recommend to the Board that NISSEN's misconduct encapsulated all but one of the categories noted above with a focus on the highest end of the Dishonesty category a lifetime disqualifier; NISSEN may never reapply for certification. Joe Raade seconded the motion. The motion carried unanimously with Rob Poirier abstaining.*

5. **Brittney Rice – DPSST #45994**

Presented by Theresa King
See Appendix E for details.

Corrina Jacobs recused herself from voting in this case.

ACTION ITEM 1 has been resolved

- During the November 4, 2010 Telecommunications Policy Committee (TPC) meeting, the TPC determined that RICE's conduct involved Dishonesty, Disregard for the Rights of Others, Misconduct and Insubordination, and rose to the level to warrant revocation. No new information has been received that would cause this Action Item to be revisited.

ACTION ITEM 2 was returned by the Board for reconsideration by the TPC.

- 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:

Based on in-depth conversation and review of the historical summary of recommended revocation periods in cases involving dishonesty, Pam Collett moved that the Telecommunications Policy Committee recommend to the Board overturning the previous 7 year recommended initial revocation period and instead recommend that RICE's misconduct is a lifetime disqualifier; RICE may never reapply for certifications. Rachel Brudnock seconded the motion. The motion carried unanimously by all voting with Corrina Jacobs abstaining.

6. Tiffany Spaulding – DPSST #50341

Presented by Theresa King

See Appendix F for details.

Tami Atkinson recused herself from voting on this case.

- *Dan Coulombe moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Rachel Brudnock seconded the motion. The motion carried unanimously with Tami Atkinson abstaining.*

- By discussion and consensus:

- a. Identify the conduct that is at issue, specific to this case.
- b. The identified conduct *did not* involve **Dishonesty**.
- c. The identified conduct *did* involve a **Disregard for the Rights of Others based on omission of information on a CAD card regarding a missing person**.
- d. The identified conduct *did not* involve **Misuse of Authority**.
- e. The identified conduct *did* involve **Gross Misconduct based on deviation of policy—if full information was disclosed the outcome may have been different**.
- f. The identified conduct *did* involve **Misconduct**.
- g. The identified conduct *did not* involve **Insubordination**.

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

- *Elizabeth Morgan moved that the Telecommunications Policy Committee suspend review of this case until additional pertinent information is received. Molly Cotter seconded the motion. The motion carried in a 7 to 1 vote with Pam Collett voting no and Tami Atkinson abstaining.*

7. Julia Talbert – DPSST #27749

Presented by Theresa King

See Appendix G for details.

• *Tami Atkinson moved that the Telecommunications Policy Committee adopts the staff report as the record upon which its recommendations are based. Joe Raade seconded the motion. The motion carried unanimously.*

• By discussion and consensus:

a. Identify the conduct that is at issue, specific to this case.

b. The identified conduct *did* involve **Dishonesty based on lies about disconnecting calls.**

c. The identified conduct *did* involve a **Disregard for the Rights of Others. People have a right to receive help from 911 without having the line intentionally disconnected.**

d. The identified conduct *did* involve **Misuse of Authority based on violation of public trust—overt act of disconnecting calls.**

e. The identified conduct *did* involve **Gross Misconduct based on gross deviation of process, possibly causing danger to people and property.**

f. The identified conduct *did* involve **Misconduct based on violation of the law – possible interference with making a report**

g. The identified conduct *did* involve **Insubordination based on violation of department policy and substantial breach in person’s duties.**

• By discussion and consensus, the Telecommunications Policy Committee must identify and consider any mitigating and aggravating circumstances. *The committee noted as aggravating circumstances that after the internal investigation, the large number of instances of hang-up calls ceased, and that taking calls is the base function of the job. No mitigating circumstances were identified.*

• *Rachel Brudnock moved that the Telecommunications Policy Committee finds TALBERT’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. Elizabeth Morgan seconded the motion. The motion carried unanimously.*

• *Joe Raade moved that the Telecommunications Policy Committee recommends to the Board that TALBERT’s misconduct encapsulated all of the categories noted above with a focus on the highest end of the Dishonesty category a lifetime disqualifier; she may never reapply for certification. Rachel Brudnock seconded the motion. The motion carried unanimously.*

8. OAR 259-008-0060 – Proposed Rule

Presented by Linsay Bassler

See Appendix H for details.

Joe Raade moved that the Telecommunications Policy Committee recommend to the Board filing the proposed language for OAR 259-008-0060 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Tami Atkinson seconded the motion. The motion carried unanimously.

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

9. OAR 259-008-0070 – Proposed Rule to Reflect New Process

Presented by Linsay Bassler

See Appendix I for details.

Joe Raade moved that the Telecommunications Policy Committee recommend to the Board filing the proposed language for OAR 259-008-0070 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Molly Cotter seconded the motion. The motion carried unanimously.

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

10. OAR 259-008-0070 – Proposed Rule to Reflect Additional Identified Criminal Statutes

Presented by Linsay Bassler

See Appendix J for details.

Joe Raade moved that the Telecommunications Policy Committee recommend to the Board filing the proposed language for OAR 259-008-0070 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Dan Coulombe seconded the motion. The motion carried unanimously.

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

11. OAR 259-008-0011 – Proposed Rule

Presented by Linsay Bassler

See Appendix K for details.

Tami Atkinson moved that the Telecommunications Policy Committee recommend to the Board filing the proposed language for OAR 259-008-0011 with the Secretary of State as a proposed rule and as a permanent rule if no comments are received. Elizabeth Morgan seconded the motion. The motion carried unanimously.

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

12. Next Telecommunications Policy Committee Meeting Date

May 4, 2011 at 11:00 a.m.

With no further business before the committee, the meeting adjourned at 1:40 p.m.

Appendix B

Department of Public Safety Standards and Training Memo

Date: May 4, 2011

To: Telecommunications Policy Committee

From: Linsay Bassler
Rules Coordinator

Subject: OAR 259-008-0010 and 259-008-0011 – Proposed Rule

Minimum Standards for Employment as a Telecommunicator and Emergency Medical Dispatcher

Issue 1: Language requiring telecommunicators/EMDs to report criminal convictions to their agency head within 72 hours of conviction, and requiring the agency to notify DPSST within five business days has been added to the rule. This requirement is currently found in OAR 259-008-0010 but is added to this rule to ensure that all minimum standards for telecommunicators/EMDs are located within the rule applicable to the discipline. We are also proposing to remove the corresponding requirement from OAR 259-008-0010.

Issue 2: Telecommunicators/EMDs are required to provide evidence of a 12th grade reading level prior to admittance into a DPSST training course. Completion of a DPSST-approved reading test is one way to meet this requirement. Current language places the responsibility of test administration on the hiring agency. This rule update changes the hiring agency's responsibility from administering the test to ensuring that an appropriate test was administered. This would allow hiring agencies to accept the scores of DPSST-approved tests that were administered by other agencies.

Issue 3: Current rule language requires the F-2T Medical Examination for Telecommunicators and Emergency Medical Dispatchers be signed by a "physician". The term "physician" is vague and could potentially exclude licensed health care professionals such as audiologists and optometrists. This rule update clarifies the requirement by allowing the form to be signed by a "licensed health professional" identified by the Department. This will allow the Department to designate the appropriate licensed health care professionals on the F-2T form.

Housekeeping changes and plain language standards were also implemented for clarity.

The following revised language for OAR 259-008-0010 contains recommended additions (**bold and underlined**) and deletions (~~strike through text~~).

259-008-0010

Minimum Standards for Employment as a Law Enforcement Officer

(5) Notification of Conviction:

(a) A law enforcement officer, or instructor, ~~telecommunicator, or EMD~~ who is convicted of a crime, as identified in OAR 259-008-0070, while employed by a public or private safety agency must notify the agency head within 72 hours of the conviction.

The following revised language for OAR 259-008-0011 contains recommended additions (**bold and underlined**) and deletions (~~strikethrough text~~).

259-008-0011

Minimum Standards for Employment as a Telecommunicator and Emergency Medical Dispatcher

(1) **Fingerprints.** On or before the date of employment, each telecommunicator and emergency medical dispatcher ~~shall~~ **must** be fingerprinted on standard applicant fingerprint cards.

(a) The hiring agency, if a public agency, is responsible for fingerprinting and ~~shall~~ **will** forward two (2) cards to the Oregon State Police Identification Services Section for processing and assignment of identification number.

(b) If the hiring agency is a private agency it is responsible for fingerprinting and ~~shall~~ **will** forward two (2) cards to the Department along with the appropriate fee.

(A) Applicant's fingerprints will be retained and kept on file with the Oregon State Police Identification Services Section.

(B) The Oregon State Police Identification Services Section ~~shall~~ **will** notify the Department and the employing agency of any criminal record disclosed through processing the applicant's fingerprint card.

(C) If any procedural change is made by the Federal Bureau of Investigation or the Oregon State Police Identification Services Section, the Department ~~shall~~ **will** comply with the most current requirements.

(D) If the fingerprint clearance has not been obtained prior to submission of the application for certification, a criminal history affidavit provided by the Department ~~shall~~ **will** be completed and returned to the Department by the applicant pending fingerprint clearance.

(2) Criminal Records. No telecommunicator or emergency medical dispatcher ~~shall~~ **will** have been convicted:

(a) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one (1) year may be imposed;

(b) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(c) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(3) Notification of Conviction:

(a) A telecommunicator or emergency medical dispatcher who is convicted of a crime as identified in OAR 259-008-0070 while employed by a public or private public safety agency must notify the agency head within 72 hours of conviction.

(b) When an agency receives notification of a conviction from its employee or another source, they must notify the Department within five (5) business days. The notification to the Department must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of conviction.

(3 4) Moral Fitness (Professional Fitness). All telecommunicators and emergency medical dispatchers must be of good moral fitness. For purposes of this standard, lack of good moral fitness includes, but is not limited to:

(a) Mandatory disqualifying misconduct as described in OAR 259-008-0070(3); or

(b) Discretionary disqualifying misconduct as described in OAR 259-008-0070(4).

(4 5) Education:

(a) Applicants for the position of a telecommunicator or emergency medical dispatcher will be required to furnish documentary evidence of one of the following:

(A) High School diploma; or

(B) Successful completion of the General Educational Development (GED) Test.

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

(b) Evidence of the above ~~shall~~ **must** consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(5 6) Reading Standard. Before beginning basic telecommunicator or emergency medical dispatcher training or challenging basic telecommunicator training, each applicant ~~shall~~ **must** provide evidence to the Department that the applicant has attained a minimum of a 12th grade reading level in the English language.

(a) The hiring agency is responsible for **ensuring a Department-approved reading test has been administered. The hiring agency must forward the results of the test to the Department on a Form F-5 (Application for Training)** ~~administering a reading test, approved by the Department, and shall forward the results to the Department on an application for training (Form F-5)~~ prior to the applicant being admitted to basic telecommunicator or emergency medical dispatcher training.

(b) Individuals submitting transcripts verifying that they possess at least a four-year academic degree from an institution recognized by the Department under the provisions of OAR 259-008-0045 are exempt from completing the 12th grade reading test prior to attending a course identified in this section.

(~~6~~ **7**) Physical Examination. All telecommunicators and emergency medical dispatcher applicants must be examined by a licensed ~~physician~~ **health professional**.

(a) The medical examination must be completed not more than 180 days prior to initial offer of employment, ~~nor~~ **and not** more than 90 days after initial offer of employment.

(b) The examination must ~~and~~ must conform to applicable standards of the Americans with Disabilities Act (ADA), Title 42 USC 12101.

~~(b)~~ **(c)** Individuals who have had a successfully completed **a** physical examination (while at the same employer) and are selected for a certifiable position in a discipline in which the individual is not yet certified must complete and pass a new physical examination.

~~(e)~~ **(d)** The Department will not require a new physical examination when a telecommunicator or emergency medical dispatcher obtains employment, or re-employment, in the same discipline if the telecommunicator or emergency medical dispatcher:

(A) Has had a successfully completed a physical examination; ~~and~~

(B) Is currently certified; or

(C) Is currently employed full-time in another jurisdiction and has successfully completed a comparable physical examination in that jurisdiction.

~~(d)~~ **(e)** Notwithstanding subsection ~~(e)~~ **(d)**, a medical examination may be required by a hiring agency at its discretion.

~~(e)~~ **(f)** Telecommunicator and emergency medical dispatcher applicants must meet the following criteria:

(A) Visual Acuity. Corrected vision must be at least 20/30 (Snellen) when tested using both eyes together.

(B) Color Vision. Red or green deficiencies may be acceptable, providing the applicant can read at least nine (9) of the first thirteen (13) plates of the Ishihara Test (24 Plate Edition). Applicants who fail the Ishihara test can meet the color vision standard by demonstrating that they can correctly discriminate colors via a field test conducted by the employer and approved by the Department. The results of the field test and the methods for testing must be maintained by the employing agency.

(i) Any employing agency that conducts a field test to meet the color vision standard must also complete a Department approved affidavit attesting that the applicant can either correctly discriminate colors or is able to successfully perform the required tasks of a telecommunicator or emergency medical dispatcher, notwithstanding the applicant's inability to correctly discriminate colors.

(ii) Any affidavit required by (i), that the Department receives and accepts, is non-transferable to any subsequent employer and may not be used by any other entity for certification purposes.

(iii) Notwithstanding subsection ~~(e)~~ **(d)** of this rule, each employer must complete an agency-specific field test and a Department-approved affidavit as described in subsection (i) of this section for any telecommunicator or emergency medical dispatcher who previously met the color vision standard by completing a field test.

(C) Peripheral Vision. Visual Field Performance must be 120 degrees in the horizontal meridian combined.

(~~f~~ **g**) Applicants for the position of telecommunicator or emergency medical dispatcher must have sufficient hearing in both ears to perform essential tasks without posing a direct threat to themselves or others. The applicant must meet National Emergency Number Association (NENA) hearing standard 54-002 (June 10, 2006).

(~~g~~ **h**) Applicants for the position of telecommunicator or emergency medical dispatcher must be able to use vocal cords and exhibit normal speech patterns, sufficient to perform speaking-related essential tasks.

(~~7~~ **8**) If further medical examination is required, it will be at the expense of the applicant or the hiring authority.

(~~8~~ **9**) All telecommunicator and emergency medical dispatcher applicants must submit a current-version ~~DPSSST~~ Medical Examination Report for Telecommunicators and Emergency Medical Dispatchers (DPSST Form F-2T); or a signed medical report completed by a licensed ~~physician~~ **health professional identified by the Department** containing, at a minimum, the information on Form F-2T **prior to the acceptance into a basic course or any course where such a report is required by the Department.** ~~This Report~~ **The Form F-2T** will be furnished to the examining ~~physician~~ **health professional** by the hiring agency.

(9) ~~A copy of the Medical Examination Report must be sent to the Department prior to acceptance into a basic course, or any course where such report is required by the Department.~~

(10) The Department may require an applicant offered conditional employment to take a subsequent examination by a licensed physician of the Department's choice at the expense of the applicant or the hiring authority.

(11) The Board may waive any physical requirement where, in its judgment, the waiver would not be detrimental to the performance of a telecommunicator or emergency medical dispatcher's duties. The applicant may be required to demonstrate the ability to perform the essential functions of the job.

(12) A person or department head requesting a waiver of any physical requirement set forth in section (11) of this rule must submit the request to the Department in writing, accompanied by supporting documents or pertinent testimony which would justify the action requested. The supporting documents must include information pertinent to the waiver request.

(a) The Board or Department may require additional documentation or testimony by the person or department head requesting the waiver if clarification is needed.

(b) Any expense associated with providing documentation or testimony will be borne by the person requesting the waiver or the requesting agency.

(c) If the person requesting the waiver does not obtain employment within one (1) year from the date a waiver is granted, the waiver will be considered void.

(~~a~~ **d**) If the Board grants a waiver, it will be recorded on the certification and any subsequent certification unless removed by the Board upon proof that the condition prompting the waiver no longer exists.

(b e) If the Board denies a request for a waiver of any physical requirement set forth in section (8 7) of this rule, the Department will issue Notice and proceed as provided in section (13) of this rule.

ACTION ITEM 1: Determine whether to recommend filing the proposed language for OAR 259-008-0010 and 259-008-0011 with the Secretary of State as a proposed rule.

ACTION ITEM 2: Determine whether to recommend filing the proposed language for OAR 259-008-0010 and 259-008-0011 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 Memorandum

DATE: May 4, 2011

TO: Telecommunications Policy Committee

FROM: Theresa M. King

Professional Standards Investigator/Coordinator

SUBJECT: NICHOLAS J. COKER DPSST #48176

Seaside Police Department

ISSUE:

Should Nicholas COKER's Basic and Intermediate Telecommunicator and Basic Emergency Medical Dispatcher certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0011, and as referenced in OAR 259-008-0070?

The issue in this case involves COKER's misconduct that led to the City's intent to discharge him which ultimately resulted in a Settlement Agreement that allowed COKER to resign.

BACKGROUND and OVERVIEW

- 1. In 2007, COKER was hired by Seaside Police Department as a dispatcher; he ultimately attended training, signed his Telecommunicator's Code of Ethics and received a Basic Emergency Medical Dispatcher and Basic and Intermediate Telecommunicator certifications.*
- 2. On January 12, 2011, after COKER was placed on notice of intent to discipline based on an internal investigation that sustained he had engaged in conduct which violated agency policy and included untruthfulness, he resigned under a Settlement Agreement.*
- 3. DPSST received an F4 Personnel Action Report on COKER showing that he had "resigned in lieu of termination." DPSST sought and obtained underlying information that led to the resignation.*
- 4. In March 2011, DPSST notified COKER via certified mail that his case would be heard before the Telecommunications Policy Committee (TPC) and allowed him an opportunity to provide mitigating circumstances for the Committee's consideration, via certified mail.*
- 5. On April 11, 2011, DPSST received documentation from COKER for the 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))

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:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, 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.*

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)]

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke COKER's certifications based on violation of the established moral fitness standards:

1. By vote, the 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 and articulate the **misconduct that is specific to this case.**

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 not 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 Policy Committee must identify and consider any mitigating and aggravating circumstances.

4. By vote, the Policy Committee finds COKER's conduct *does/does not* rise to the level to warrant the revocation of his certifications(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 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.

Appendix D

Department of Public Safety Standards and Training Memorandum

DATE: May 4, 2011

TO: Telecommunications Policy Committee

FROM: Theresa M. King

Professional Standards Investigator/Coordinator

SUBJECT: Belinda DeVANEY DPSST #43457 Washington County 911

ISSUE:

Should Belinda DeVANEY's Basic Telecommunicator and Basic Emergency Medical Dispatcher certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0011, and as referenced in OAR 259-008-0070?

The issue in this case involves DeVANEY's resignation during an investigation for misconduct, and prior similar misconduct which had been investigated and sustained.

BACKGROUND and OVERVIEW

1. In 2003 DeVANEY was hired by Washington County Consolidated Communications Agency (WCCCA) as a dispatcher; she ultimately attended training, signed her Telecommunicator's Code of Ethics and received Basic Emergency Medical Dispatcher and Basic and Intermediate Telecommunicator certifications.
2. In November 2010, DPSST received an F4, Personnel Action Report, showing DeVANEY resigned during an investigation. Subsequent to this, DPSST sought and obtained information relating to the resignation.
3. In December 2010, DPSST notified DeVANEY via certified mail that her case would be heard before the Telecommunications Policy Committee (TPC) and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration. DeVANEY provided information for the 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))

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:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, 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.*

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)]

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke DeVANEY's certifications based on violation of the established moral fitness standards:

1. By vote, the 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 and articulate the **misconduct that is specific to this case.**

- 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 not 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 Policy Committee must identify and consider any mitigating and aggravating circumstances.

4. By vote, the Policy Committee finds DeVANEY'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 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.

Appendix E

Department of Public Safety Standards and Training Memorandum

DATE: May 4, 2011

TO: Telecommunications Policy Committee

FROM: Theresa M. King

Professional Standards Investigator/Coordinator

SUBJECT: INDY M. ROBERTSON DPSST #27509

American Medical Response Northwest

ISSUE:

Should Indy ROBERTSON's Basic Police and Basic Emergency Medical Dispatcher certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0011, and as referenced in OAR 259-008-0070?

The issue in this case involves ROBERTSON's conviction for DUII in 2010, a discretionary disqualifying crime which required the review of the TPC.

EXECUTIVE SESSION: If medial information is discussed, this requires the Policy Committee go into Executive Session.

BACKGROUND and OVERVIEW

- 1. During the years of 1992 through 1994, ROBERTSON intermittently worked as a police officer, attended the DPSST Basic Police Course, signed her Criminal Justice Code of Ethics and obtained her Basic Police certificate.*
- 2. In 1999 ROBERTSON was hired by American Medical Response Northwest as a dispatcher; she ultimately attended training, and received Basic Emergency Medical Dispatcher certification.*
- 3. In April 2010, DPSST discovered ROBERTSON had been convicted of DUII in the state of Washington. Subsequent to this, DPSST sought and obtained information relating to the incident and the judgment of this crime.*
- 4. In March 2011, DPSST notified ROBERTSON via certified mail that her case would be heard before the Telecommunications Policy Committee (TPC) and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration. ROBERTSON provided information for the Committee's consideration. DPSST responded to additional questions of ROBERTSON regarding the process.¹*

¹ Ex A16 – A17

5. On April 12, 2011, ROBERTSON emailed KING with additional questions regarding process and additional documentation for the 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))

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.

SPECIFIC TO THIS CASE:

OAR 259-008-0070(4) specifies the discretionary disqualifying misconduct of DUII as a Category IV, Gross Misconduct, based on the elements of the crime. It carries a presumptive length of ineligibility for reconsideration of certification of five to ten years.

POLICY COMMITTEE AND BOARD REVIEW:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, 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.

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)]

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke ROBERTSON's certifications based on violation of the established moral fitness standards:

1. By vote, the 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 and articulate the **misconduct that is specific to this case**.

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 not 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 Policy Committee must identify and consider any mitigating and aggravating circumstances.

4. By vote, the Policy Committee finds ROBERTSON'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 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.

Appendix F

Department of Public Safety Standards and Training Memorandum

DATE: May 4, 2011

TO: Telecommunications Policy Committee

FROM: Theresa M. King

Professional Standards Investigator/Coordinator

SUBJECT: Tiffany Spaulding DPSST #50431

Lincoln County Communications Agency

ISSUE:

Should Tiffany SPAULDING's Basic Telecommunicator and Emergency Medical Dispatcher certifications be revoked, based on violation of the moral fitness standards defined in OAR 259-008-0011, and as referenced in OAR 259-008-0070?

The issue in this case involves SPAULDING's resignation during an investigation for misconduct.

BACKGROUND and OVERVIEW

- 1. In 2009 SPAULDING was hired by Lincoln County Communications as a dispatcher; she ultimately attended training, signed her Telecommunicator's Code of Ethics and received Basic Emergency Medical Dispatcher and Basic and Intermediate Telecommunicator certifications.*
- 2. In October 2010, DPSST received an F4, Personnel Action Report, showing SPAULDING resigned during an investigation. Subsequent to this, DPSST sought and obtained information relating to the resignation.*
- 3. In December 2010, DPSST notified SPAULDING via certified mail that her case would be heard before the Telecommunications Policy Committee (TPC) and allowed her an opportunity to provide mitigating circumstances for the Committee's consideration. SPAULDING provided information for the Committee's consideration.*
- 4. On February 2, 2011, the Telecommunications Policy Committee reviewed the matter and determined that the transcript of the internal investigations interview with SPAULDING would be helpful in their determination, as well as any information Interim Director Atkinson could provide, in writing. Subsequent to this, DPSST obtained the requested information and the transcript.*

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))

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:

In making a decision to authorize initiation of proceedings based on discretionary disqualifying misconduct, 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.*

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)]

ACTION ITEM 1:

Staff requests the Policy Committee review the matter and recommend to the Board whether or not to revoke SPAULDING’s certifications based on violation of the established moral fitness standards:

1. By vote, the 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 and articulate the **misconduct that is specific to this case.**

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 not 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 Policy Committee must identify and consider any mitigating and aggravating circumstances.
4. By vote, the Policy Committee finds SPAULDING'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 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.

Appendix G

Department of Public Safety Standards and Training Memo

Date: May 2011

To: Telecommunications Policy Committee
Corrections Policy Committee
Police Policy Committee

From: Linsay Bassler
Rules Coordinator

Subject: Proposed Intermediate/Advance Certification Requirements

Background: In 2007 a workgroup was formed to review the certification chart for achieving Advanced and Intermediate certificates in the four Criminal Justice disciplines.

Current Intermediate/Advanced Certification Chart

INTERMEDIATE CERTIFICATION								
Minimum Years of Experience	8 years	7 years	6 years	5 years	4 years	4 years	2 years	
Minimum Training Points, Including DPSST Basic Course (Equivalent hours in parentheses)	15 (300 hours)	23 (460 hours)	30 (600 hours)	38 (760 hours)	45 (900 hours)	DPSST Basic Course	DPSST Basic Course	
Minimum College Education Credits	15	23	30	38	45	Assoc. Degree	Bachelor Degree	
ADVANCED CERTIFICATION								
Minimum Years of Experience	12 years	11 years	10 years	9 years	8 years	9 years	6 years	4 years
Minimum Training Points, Including DPSST Basic Course (Equivalent hours in parentheses)	30 (600 hours)	35 (700 hours)	40 (800 hours)	45 (900 hours)	60 (1200 hours)	DPSST Basic Course	DPSST Basic Course	DPSST Basic Course
Minimum College Education Credits	30	35	40	45	60	Assoc. Degree	Bachelor Degree	Master Degree

That large group split into four discipline-specific subcommittees that were tasked with coming up with a new chart that reflects changes in the professions and in the education system over

time. It was the consensus of all original members that the new chart(s) should include some measure of competency in the criteria for certification.

Although the original committee's desire was to retain the model of a single certification chart, with the discipline-specific requirements included as a portfolio/test or other competency evaluation, as each of the subcommittees met, they independently determined that four different certification charts, unique to each discipline, will be needed.

Issue: Following is a summary of known issues surrounding the proposed charts developed by each subcommittee:

Corrections:

- Limited feedback.
- Concerns that the task books are too complicated and would take too much time to complete and grade.
- Concerns from labor organizations.

Parole & Probation:

- A system needs to be developed for grading the tests and determining passing score.

Police:

- The competency portion of the chart has not been defined.

Telecommunicators/EMD:

- None. The Intermediate and Advanced portfolio concept is currently being used by Clackamas County.

In addition to the specific subcommittee concerns, many of the members of the original workgroup and of several of the subcommittees are no longer available to participate. This is further rendering the participating, feedback, and momentum.

ACTION ITEM: Provide staff with general guidance regarding the preferred next steps.