

**Telecommunications Policy Committee**  
**Minutes**  
**November 6, 2008**

The Telecommunications Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on November 6, 2008 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  
Bob Cozzie, Association of Public Safety Communications Officers  
James Rentz, Oregon State Police  
LeAnne Senger, Public Safety Telecommunicators  
Chris Benson, Oregon Fire Medical Administrators' Association  
Elizabeth Morgan, Emergency Medical Services and Trauma Systems

**Committee Members Absent:**

Jack Jones, Oregon State Sheriff's Association  
Jennifer Brinlee, Public Safety Telecommunicators  
Tom Clemo, Oregon Fire Chiefs' Association  
Brian Casey, Oregon Association Chiefs of Police

**DPSST Staff:**

Eriks Gabliks, Deputy Director  
Carolyn Kendrick, Administrative Assistant  
Marilyn Lorange, Standards and Certification Supervisor  
Theresa King, Professional Standards Coordinator  
Bonnie Salle-Narvaez, Certification Coordinator  
Brenda Anderson, Curriculum Specialist  
Heather Hatch, Testing Specialist



**1. Minutes from August 7, 2008 Meeting**

Approve meeting minutes from August 7, 2008.

**See Appendix A for details**

***James Rentz moved to approve the minutes from the August 7, 2008 meeting. Elizabeth Morgan seconded the motion. The motion carried unanimously by all voting.***

**2. OAR 259-001-0005 – Proposed Rule**

Housekeeping Changes to Administrative Rule Making  
Presented by Bonnie Salle-Narvaez

**See Appendix B for details**

***Tami Atkinson moved to recommend filing the proposed language for OAR 250-001-0005***

*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 by all voting.*

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

**3. OAR 259-008-0020**

Issuance of DPSST Number  
Presented by Bonnie Salle-Narvaez

*See Appendix C for details*

*After clarification from staff and the assurance that this is a common occurrence, Jim Rentz moved to recommend filing the proposed language for OAR 259-008-0020 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 by all voting.*

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

**4. Maintenance Training – Policy Discussion**

Presented by Bonnie Salle-Narvaez

*See Appendix D for details*

*Staff asked the committee for guidance on the following questions:*

- *Question 1: should an individual who is not employed, but maintains certification after separation, be required to meet annual maintenance training requirements?*
- *Question 2: Should the Department recall a telecommunicator's or emergency medical dispatcher's certification if the individual fails to complete annual maintenance training during a period when the individual maintains certification, but is not employed?*

*The consensus of the committee is "yes" on both questions. Staff asked the committee if it would find value in clarification of the process. The committee agreed it would. Staff stated this issue would come before the committee as a proposed rule at the next Telecommunications Policy Committee meeting in February 2009.*

**5. Margaret M. Edwards – DPSST #44556**

Presented by Theresa King

*See Appendix E for details*

*Staff requests the Telecommunications Policy Committee review the matter and make a recommendation to the Board whether or not to revoke Edwards' certifications, based on a violation of the established moral fitness standards using the following guidelines:*

1. *Elizabeth Morgan moved that the Committee adopts the staff report and related documents as the record on which the recommendation is based. Tami Atkinson seconded the motion. The motion carried unanimously by all voting.*
2. By discussion and consensus:
  - a. What conduct is at issue? *The committee agreed that dishonesty, falsification of records, fraud, deceit, and misrepresentation was the issue at hand.*
  - b. What specific grounds do the facts relate to? *The committee agreed the conduct was consistent with the violations listed in the established moral fitness standards in OAR 259-008-001(3)(a)(B,C, and E)*
  - c. Is there enough evidence to find, by a preponderance, that Edwards engaged in this conduct? *The committee agreed there is enough evidence that Edwards engaged in this conduct.*
  - d. Does the conduct constitute grounds for revocation? *The committee agreed Edwards' conduct does constitute grounds for revocation based on dishonesty, fraud, deceit, and misrepresentation.*
  - e. Does the conduct rise to the level that warrants revocation? *The committee agreed there was no mitigating factors and noted there was no response to attempts by the Department to contact Edwards. The committee also believes Edwards' conduct does rise to the level that warrants revocation.*
3. *Bob Cozzie moved that the committee recommend to the Board the revocation of Margaret Edwards' certifications based on a violation of the established moral fitness standards. Elizabeth Morgan seconded the motion. The motion carried unanimously by all voting.*

*Due to time constraints staff asked that the order of agenda items six and seven be switched.*

**6. Basic Telecommunications Course Overtime Impacts**

Presented by Eriks Gabliks

*See Appendix F for details*

*Staff shared that this issue is not unique to the Telecommunications discipline. Some different collective bargaining agreements state the work day starts when the students show up for training and ends when they leave at the end of the day regardless of how many breaks are taken. The committee stated that typically the unions are not opposed to memorandums of understanding stating something to the effect of while the employee is still on a probationary period the hours of training is dictated by the training institution. The committee agreed that the solution may be within their individual collective bargaining unit when they are in training in so far as the 40-hour week is met. The committee offered that OSPOA could be contacted for possible language for a memorandum of understanding.*

**7. Terry J. Vandehey – DPSST #39371**

Presented by Theresa King

*See Appendix G for details*

*James Rentz stated for the record that he would abstain from participation in this vote as he was Terry Vandehey's supervisor.*

*Staff requests the Telecommunications Policy Committee review the matter and make a recommendation to the Board whether or not to revoke Vandehey's certifications, based on a violation of the established moral fitness standards, the discretionary disqualifying convictions, or both, using the following guidelines:*

- 1. Bob Cozzie moved that the Committee adopts the staff report and related documents as the record on which the recommendation is based. Chris Benson seconded the motion. The motion carried unanimously by all voting.*
- 2. By discussion and consensus:*
  - a. What conduct is at issue? The committee agreed intoxication and personal habits off the job, as well as discretionary disqualifying convictions were the issue at hand.*
  - b. What specific grounds do the facts relate to? The committee agreed the conduct is consistent with violations listed in the established moral fitness standards in OAR 259-008-0011(3)(b)(E), and applicable discretionary disqualifying conduct listed in OAR 259-008-0070(3)(XI and XII).*
  - c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct? The committee agreed there is enough evidence to find that Vandehey engaged in this conduct.*
  - d. Does the conduct constitute grounds for revocation? The committee agreed this conduct does constitute grounds for revocation.*
  - e. Does the conduct rise to the level that warrants revocation? The committee agreed there were no mitigating circumstances and there were aggravating circumstances based on the fact Vandehey blew a .23 BAC which would indicate probable substance addiction.*
- 3. Elizabeth Morgan moved to recommend to the Board the revocation of Terry J. Vandehey's certifications based on a violation of the established moral fitness standards and the discretionary disqualifying convictions. LeAnne Senger seconded the motion. The motion carried unanimously by all voting with James Rentz abstaining.*

#### **8. Additional Business**

Telecommunication Curriculum Meeting Overview  
Presented by Bob Cozzie

*Bob Cozzie stated that the Telecommunications Curriculum Committee agreed to include a CD with the text, that the text should be bound rather than in binders, and test questions should be changed. An advanced instructor certification course was suggested but not discussed in depth.*

#### **9. Next Telecommunications Policy Committee Meeting Date**

Thursday, February 5, 2009 at 10:00 a.m.

*With no further business before the Committee, Bob Cozzie moved to adjourn the meeting. Elizabeth Morgan seconded the motion. The motion carried unanimously by all voting and the meeting adjourned at 11:09 a.m.*

## Appendix A

### **Telecommunications Policy Committee Minutes (Draft) August 7, 2008**

The Telecommunications Policy Committee of the Board on Public Safety Standards and Training held a regular meeting on August 7, 2008 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  
Bob Cozzie, Association of Public Safety Communications Officers  
James Rentz, Oregon State Police  
LeAnne Senger, Public Safety Telecommunicators  
Chris Benson, Oregon Fire Medical Administrators' Association  
Jennifer Brinlee, Public Safety Telecommunicators  
Tom Clemo, Oregon Fire Chiefs' Association

##### Committee Members Absent:

Elizabeth Morgan, Emergency Medical Services and Trauma Systems  
Jack Jones, Oregon State Sheriff's Association

##### Guests:

Cheryl Pellegrini, Assistant Attorney General, Oregon Department of Justice

##### DPSST Staff:

Eriks Gabliks, Deputy Director  
Carolyn Kendrick, Administrative Assistant  
Marilyn Lorange, Standards and Certification Supervisor  
Theresa King, Professional Standards Coordinator  
Bonnie Salle-Narvaez, Certification Coordinator  
Steve Winegar, Curriculum Research and Development



#### 1. Minutes from May 1, 2008 Meeting

Approve meeting minutes from May 1, 2008.

##### See Appendix A for details

*Tamara Atkinson moved to approve the minutes from the May 1, 2008 meeting. James Rentz seconded the motion. The motion carried unanimously by all voting.*

#### 2. OAR 259-008-0070 – Denial and Revocation

Hearing Officer's Report and Recommendation  
Presented by Bonnie Salle-Narvaez

See Appendix B(1-4) for details

*Brian Casey moved to accept the Hearing Officer's recommendation of adopting the amendment of OAR 259-008-0070 as a permanent rule with the identified additional modifications to the original proposed rule language. LeAnne Senger seconded the motion. The motion carried unanimously by all voting.*

3. Department of Justice Discussion Regarding Contested Case Hearings

Presented by Cheryl Pellegrini, Assistant Attorney General

*Due to cases that have gone to contested case hearings which have had no insight into what the policy committee was thinking or factors it considered when the initial determination to recommend revocation of certification was made, the Department of Justice would like to recommend the following:*

- *Policy committee to vote to adopt the staff report and the exhibit list and make it part of the record; and*
- *State on the record, after consideration of the report, the specific basis in the event the committee votes to revoke or not, and to cite what factors were considered – both aggravating and mitigating – and relate specific facts in the report to specific provisions in Administrative Rules.*

4. Lori Matthews – DPSST #39371

Presented by Theresa King

See Appendix C for details

5. *Bob Cozzie moved to adopt the staff report as the record. Tom Clemo seconded the motion. The motion carried unanimously by all voting.* The Telecommunication Policy Committee *adopts* the Staff report as the record.

*It is the consensus of Telecommunications Policy Committee that:*

- a.) MATTHEWS' actions *do* cause a reasonable person to have doubts about her honesty, respect for the rights of others, and respect for the laws of the land. *The witness' statement contradicts Matthews' statement as well as other instances of dishonesty.*
- b.) MATTHEWS' conduct *did* involve dishonesty, fraud, deceit, or misrepresentation. *When Matthews was spoken to at home, she said she did not drive home. However, Matthews' own child said she saw her face pulling into the apartment complex and the car wasn't there when Matthews was not there and the car was there when Matthews arrived.*
- c.) MATTHEWS' conduct *was* prejudicial to the administration of justice. *James Rentz cited Matthews' comment to the officer, "wait until you have a pursuit in my jurisdiction..." basically saying next time you come through my jurisdiction I'm not going to properly dispatch your pursuit.*
- d.) MATTHEWS' conduct *did* adversely reflect on her fitness to perform as a Telecommunicator. *Tami Atkinson cited the same example as in item "c", not going to perform duties in certain situations.*

- e.) MATTHEWS' actions *do* make her inefficient or otherwise unfit to render effective service because of the agency's and the public's loss of confidence in her ability to perform competently. *Untruthfulness, pattern of history, and documented absenteeism are a few good examples of Matthews' being unfit to perform as a Telecommunicator.*

*Bob Cozzie moved to recommend items a-e in the affirmative. Tom Clemo seconded the motion. The motion carried unanimously by all voting.*

After a review of any mitigating and aggravating circumstances it is the consensus of the committee that:

- a.) MATTHEWS' case *does not contain* mitigating circumstances. *Opportunities were given for mitigating circumstances but do not appear to have been taken seriously by Matthews, such as court diversion and with the probationary situation that was set up with the employer. The fact that Matthews failed to provide any mitigating circumstances gives the committee really nothing to go on.*

*Tami Atkinson moved that it is the consensus of the committee that there are no mitigating circumstances. Chris Benson seconded the motion. The motion carried unanimously by all voting.*

- b.) MATTHEWS' case *contains* aggravating circumstances. *The fact that court diversion and rehabilitation through her employment were effectively shunned by Matthews shows aggravating circumstances. The multiple DUII arrests also show aggravating circumstances as well as threats to the officers.*

*James Rentz moved to state that Matthews' case does contain aggravating circumstances. LeAnne Senger seconded the motion. The motion carried unanimously by all voting.*

*It is the consensus of the committee that MATTHEWS' conduct does rise to the level to warrant the revocation of her certifications, and therefore recommends to the Board that MATTHEWS' certifications be revoked.*

*Tami Atkinson moved, that after adopting the staff report in its entirety and with reviewing elements of the moral fitness clause and finding no mitigating circumstances and several aggravating circumstances, to recommend to the Board that Lori Matthews' certifications be revoked. Bob Cozzie seconded the motion. The motion carried unanimously by all voting.*

## 6. Reading and Writing Standards for Telecommunicators

Presented by Marilyn Lorange and Steve Winegar

*See Appendix D for details*

*Staff's request for direction from the committee is whether as a minimum state standard we should continue requiring 12<sup>th</sup> grade writing score as well as a 12<sup>th</sup> grade reading score when DPSST can't legally justify it.*

*The committee asked if the Job Task Analysis (JTA) supports any kind of writing requirement. Staff answered that the JTA states “effective communications skills using the written word.” Stanard’s test reflects general language comprehension, not the ability to write in a 12<sup>th</sup> grade manner. The 12<sup>th</sup> grade reading level has inferential writing ability by virtue of completing the reading elements. The committee is concerned about lowering standards for the Telecommunication profession. Since there is no justification from the Job Task Analysis for specific writing standards, each agency could keep the writing standard as an element of the hiring process, irrespective of DPSST’s look at state minimum standards, based on statewide essential tasks.*

*Bob Cozzie moved to approve staff removing “and writing” from the OAR and having it no longer be considered a standard for Telecommunicators. Tami Atkinson seconded the motion. The motion carried unanimously by all voting.*

*Staff stated that when looking at Stanard’s test as a beta test for Telecommunicators, it is not necessarily a good idea due to the fact that the students have already been screened and approved as passing the 12<sup>th</sup> grade reading standard by the hiring agencies.*

7. **Additional Business**

Presented by Steve Winegar

*With the other disciplines staff started to look at hiring trends and is just starting to do so with Telecommunications. Within a couple months we should have that information available for committee perusal.*

8. **The next regularly scheduled Telecommunications Policy Committee meeting is November 6, 2008 at 10:00 a.m.**

**With no further business before the Committee, the meeting adjourned at 11:30 a.m.**

## Appendix B

### Department of Public Safety Standards and Training Memo

**Date:** October 9, 2008  
**To:** Telecommunications Policy Committee  
**From:** Bonnie Sallé-Narváez  
Rules Coordinator  
**Subject:** OAR 259-001-0005 – Proposed Rule  
Housekeeping Changes to Administrative Rulemaking Process

**Issue:** The Department of Justice (DOJ) has recommended amending OAR 259-001-0005 to include a reference to statutory language that retains the Department's ability to adopt the Attorney General's Model Rules without a formal rulemaking process.

DOJ has also recommended clarifying the Department's requirement to provide notice to interested parties as part of the proposed *permanent* rulemaking process. The Department is not currently required to provide notice to interested parties when filing temporary rules because temporary rules are not part of the proposed *permanent* rulemaking process.

The following revised language for OAR 259-001-0005 contains recommended additions (**bold and underlined**).

259-001-0005

Notice to Interested Persons on Proposals to Adopt, Amend, or Repeal any Administrative Rule Affecting Police Officers, Corrections Officers, or Parole and Probation Officers, Telecommunicators, Emergency Medical Dispatchers, Fire Service Professionals, Law Enforcement Units, and Public or Private Safety Agencies as Defined in ORS 181.610

In accordance with ORS 183.341(4), **and except as provided in ORS 183.341(1)**, to provide a reasonable opportunity for interested persons to be notified of the proposed actions affecting police officers, corrections officers, parole and probation officers, telecommunicators, emergency medical dispatchers, fire service professionals, law enforcement units, or public or private safety agencies, the Board and the Department shall give notice of the proposed **permanent** adoption, amendment, or repeal of rule(s):

(1) At least twenty-one (21) days prior to the effective date of the intended action, in the Secretary of State's Bulletin referred to in ORS 183.360.

\* \* \*

**ACTION ITEM 1:** Determine whether to recommend filing the proposed language for OAR 259-001-0005 with the Secretary of State as a proposed rule.

**ACTION ITEM 2:** Determine whether to recommend filing the proposed language for OAR 259-001-0005 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 (see form attached).

## Appendix C

### Department of Public Safety Standards and Training Memo

**Date:** October 9, 2008

**To:** Telecommunications Policy Committee

**From:** Bonnie Sallé-Narváez  
Rules Coordinator

**Subject:** OAR 259-008-0020 – Proposed Rule  
Issuance of DPSST Number

**Issue:** The Department is responsible for issuing a DPSST number to all newly appointed public safety professionals. However, the Department often receives personnel action reports for non-public safety personnel, some of whom may be eligible to obtain a DPSST number.

Staff recommends amending the current rule to clarify those instances when a DPSST number will be issued, when a DPSST number may not be issued and the process for requesting a DPSST number for a non-public safety employee.

The following revised language for OAR 259-008-0020 contains recommended additions (**bold and underlined**) and deletions (~~striketrough text~~).

#### **259-008-0020**

##### **Personnel Action Reports**

(1) All law enforcement units and public or private safety agencies ~~shall furnish to the Department~~ **must submit** the name, ~~address,~~ and other pertinent information concerning any newly appointed public safety professional **to the Department** on a Personnel Action Report (DPSST Form F-4) within ten (10) business days after employment.

**(a) A Department (DPSST) number will be established for each newly appointed employee identified on a Personnel Action Report (DPSST Form F-4) if:**

**(A) The individual is employed in a certifiable position as a police officer, corrections officer, parole and probation officer, telecommunicator or emergency medical dispatcher;**

**(B) The individual is employed as a reserve police officer; or**

**(C) An individual's employer has submitted a written request identifying a demonstrated law enforcement need for an employee to obtain a DPSST number and the Department has approved the request. These positions may include, but are not limited to:**

**(i) An individual granted Federal Arrest Powers by the Department;**

**(ii) An individual who operates an Intoxilyzer or other law enforcement device for which a DPSST number is necessary; or**

**(iii) An individual who is required to file a police or other criminal justice report for which a DPSST number is necessary.**

**(b) No DPSST number will be assigned to an individual who has not been identified as a newly appointed public safety professional unless approved by the Department.**

(2) Whenever public safety personnel resign, retire, or terminate employment, are promoted, demoted, discharged, deceased, take a 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.

[ED. NOTE: Forms referenced are available from the agency.]

**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 (see form attached).

## Appendix D

### Department of Public Safety Standards and Training Memo

**Date:** October 1, 2008  
**To:** Telecommunications Policy Committee  
**From:** Bonnie Sallé-Narváez  
**Subject:** Maintenance Training – Policy Discussion

**Issue 1:** The Department currently requires annual maintenance training for certified telecommunicators and emergency medical dispatchers.

Staff seeks clarification from the Committee to determine whether failing to complete maintenance training should result in a lapsed or recalled certification for a telecommunicator or emergency medical dispatcher who retains certification after resigning or terminating from employment.

Staff has attached an employee profile of a Tele/EMD employee with the following employment history (see Exhibit B):

09-09-05	Hired as Tele/EMD
11-18-05	Completed Basic Tele/EMD Courses
04-23-07	Basic Tele/EMD certifications granted
10-22-07	Resigned from agency
04-08-08	Re-hired with same agency as Tele/EMD
06-30-08	<i>Annual Maintenance Training due</i>

Because a telecommunicator's certification does not lapse for one year after resigning, this employee retained his/her certification. Because the employee was not employed during the period October 23, 2007 through April 7, 2008, the agency did not believe the employee should be required to complete annual maintenance training in June 2008.

The current rules governing maintenance training are attached. Relevant portions of the rule are italicized. (see Exhibit A)

Staff requests the following policy committee guidance:

Question 1: Should an individual who is not employed, but maintains certification after separation, be required to meet annual maintenance training requirements?

Question 2: Should the Department recall a telecommunicator's or emergency medical dispatcher's certification if the individual fails to complete annual maintenance training during a period when the individual maintains certification, but is not employed?

OAR 259-008-0064 provides as follows:

**"259-008-0064**

**Maintenance of Certification for Telecommunicators and Emergency Medical Dispatchers**

(1) Basic Certification:

(a) *All certified telecommunicators must participate in 12 hours of training annually. The training must be reported by July 1st of each year to DPSST on a **Form F-15T**. The content of the training is determined by the public or private safety agency administrator;*

(b) The employing agency must maintain documentation of required telecommunicator training on each telecommunicator;

(c) The employing agency must notify the Department of all telecommunicators employed annually, and provide documentation as to the training status of all employed telecommunicators.

(2) Emergency Medical Dispatch Certification: *All certified Emergency Medical Dispatchers must complete four (4) hours of approved in-service training in Emergency Medical Dispatch annually. The in-service training must be reported by July 1st of each year to DPSST on a **Form F-15T**. The content of the training is determined by the public or private safety agency administrator.*

(3) *Those who are certified in both disciplines under OAR 259-008-0060(17) must report the required training to DPSST by July 1st of each year on a **Form F-15M**.*

(4) *Failure to comply with sections (1) and (2) of this rule will result in the recall of their certification by the Department.*

(5) Recertification following a recall may be obtained at the approval of DPSST by submitting the following to DPSST:

(a) The employing agency head request recertification, along with a justification of why the training was not completed; and

(b) Verification that the missed training was completed.

(6) Notwithstanding paragraph (4) 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;

(7) 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.

[ED. NOTE: Forms referenced are available from the agency.]

## Appendix E

### Department of Public Safety Standards and Training Memorandum

**DATE:** November 6, 2008  
**TO:** Telecommunications Policy Committee  
**FROM:** Theresa King  
Professional Standards Coordinator

**SUBJECT:** Margaret M. EDWARDS DPSST #44556

**ISSUE:**

Should Margaret EDWARDS' Basic Emergency Medical Dispatcher and Basic Telecommunicator certifications be revoked based on violation of the Moral Fitness standards defined in OAR 259-008-0011?

**BACKGROUND and OVERVIEW**

*This case involves the following actions and processes related to EDWARDS:*

*On July 21, 2004, EDWARDS was hired by the W.C.C.C.A. as a Telecommunicator.*

*On July 21, 2004, EDWARDS signed an F-11T, Telecommunicators Code of Ethics.*

*On September 5, 2006, EDWARDS was granted a Basic Emergency Medical Dispatcher certification.*

*On September 5, 2006, EDWARDS was granted a Basic Telecommunicator certification.*

*On or about May 22, 2008, EDWARDS resigned in lieu of termination.*

*On July 11, 2008, DPSST mailed a request for the investigation that led to the individual's resignation, and subsequently received the requested information.*

*On July 31, 2008, DPSST mailed EDWARDS a letter advising her that her case would be heard before the Telecommunications Policy Committee allowing her an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent by regular and by certified mail. To date EDWARDS has not provided any response.*

**DISCUSSION:**

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

**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.

**DISCRETIONARY DISQUALIFYING CONDUCT**

OAR 259-008-0070 specifies discretionary disqualifying conduct which includes criminal convictions and violations of the established moral fitness standards. This rule provides for Committee and Board consideration of aggravating and mitigating circumstances by stating, in part:

...

*(3) Discretionary Grounds for Denying or Revoking Certification of a Public Safety Professional or Instructor: The Department may deny or revoke the certification of any public safety professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:*

...

*(c) 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. (moral fitness)*

and OAR 259-008-0070(5) specifies the procedures to be used by stating, in part:

...

*(C) The Department will seek input from the affected public safety professional or instructor, allowing him or her to provide, in writing, information for the Policy Committee and Board’s review.*

*(D) If the Department determines that a public safety professional or instructor may have engaged in discretionary disqualifying conduct listed in subsection (3), the case may be presented to the Board, through a Policy Committee.*

...

*(d) Policy Committee and Board Review: The Policy Committees and Board may consider mitigating and aggravating circumstances in making a decision to deny or revoke certification based on discretionary disqualifying conduct.*

**Moral Fitness**

OAR 259-008-0011(3) states, in part, “All telecommunicators and emergency medical dispatchers must be of good moral fitness. Moral fitness is described as:

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a telecommunicator. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the telecommunicator's performance on the job which makes the telecommunicator both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the telecommunicator's ability to perform competently.

**ACTION REQUESTED:**

Staff requests the Telecommunications Policy Committee review the matter and make a recommendation to the Board whether or not to revoke EDWARDS' certifications, based on a violation of the established moral fitness standards using the following guidelines:

4. By *vote*, the Committee *does/does not* adopt the staff report and related documents as the record on which the recommendation is based.
5. By *discussion and consensus*:
  - a. What conduct is at issue? (*The Committee should articulate what conduct they are considering.*)
  - b. What specific grounds do the facts relate to? (*The Committee should compare the conduct with the established moral fitness standards in OAR 259-008-0011, and articulate which subsection(s) apply.*)
  - c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct?
  - d. Does the conduct constitute grounds for revocation? (*There may be one or more separate events.*)
  - e. Does the conduct rise to the level that warrants revocation? (*The Committee should articulate the mitigating or aggravating circumstances they considered when reaching this determination.*)
6. By *vote*, the Committee *recommends/does not recommend* revocation.

## Appendix F



NORTH MARION COUNTY COMMUNICATIONS  
1060 Mount Hood Avenue, Woodburn, Oregon 97071  
Phone (503) 982-2340 Fax (503) 982-2375

October 2, 2008

DPSST  
Eriks Gabliks  
4190 Aumsville Hwy  
Salem, OR 97317

Dear Eriks,

In the past year we have had the opportunity to send employees to the Telecommunicator Academy at DPSST. The employees were scheduled and required to report to class and/or the morning colors ceremony at different times of each day of the week. Normally the employees were released for a 15-20 minute period and then required to report to class thereafter. There were also situations where the employees had modified training schedules during the week that were different than the typical 8am -5pm workday, to include the Friday graduation ceremony that is a less than 8 hour day. There are specific Wage and Hour regulations that dictate hours of work for employees that these modifications are potentially violating. In addition some agencies have additional requirements set forth by a collective bargaining agreement.

Being an administrator of a public safety agency, I completely understand and support the requirement of attending the colors ceremony and understand reasons for modifying a training day to fit the schedule of the instructors from time to time; however these additional hours or modification of hours has a direct budgetary and potential legal impact to the employing agency.

What I would ask the Telecommunications Policy Committee and yourself to review includes the Wage and Hour [40-hour work week] requirements that employers must follow along with the potential collective bargaining contract violations for work day and overtime requirements.

I understand that it is impossible to consider all collective bargaining agreements when establishing training schedules, but what might be beneficial to agencies is standardization for each Telecommunications Class to include a standardized reporting and ending time consistent with the curriculum. If the Agency heads were aware of these requirements prior to sending personnel to the two-week academy class, the management of the employing organization could modify the employees work schedule. This would also assist in the employing agency with any budgetary impacts associated with overtime requirements to employees while attending the academy.

Thank you for your consideration of this request and if I can be of further assistance with examples, please don't hesitate to contact me.

Respectfully,

Gina Audritsh  
Director

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## Appendix G

### Department of Public Safety Standards and Training Memorandum

**DATE:** November 6, 2008  
**TO:** Telecommunications Policy Committee  
**FROM:** Theresa King  
Professional Standards Coordinator

**SUBJECT:** Terry J. VANDEHEY DPSST #39371

#### **ISSUE:**

Should Terry VANDEHEY's Basic, Intermediate, Advanced and Supervisory Telecommunicator certifications be revoked based on violation of the Moral Fitness standards defined in OAR 259-008-0011, or the discretionary disqualifying convictions defined in OAR 2590-008-0070, or both?

#### **BACKGROUND and OVERVIEW**

*This case involves the following actions and processes related to VANDEHEY:*

*On August 24, 1990, VANDEHEY was hired by the Oregon State Police as a Telecommunicator.*

*On May 6, 1994, VANDEHEY signed an F-11T, Telecommunicators Code of Ethics.*

*On July 2, 1994, VANDEHEY was granted a Basic Telecommunicator certification.*

*On November 19, 1999, VANDEHEY was granted an Intermediate Telecommunications certification.*

*On November 19, 1999, VANDEHEY was granted an Advanced Telecommunications certification.*

*On January 14, 2000, VANDEHEY was granted a Supervisory Telecommunications certification.*

*On May 11, 2005, VANDEHEY was arrested for DUII*

*On June 29, 2005, VANDEHEY entered a guilty plea on the DUII and entered into a Diversion.*

*On June 23, 2006, the Court filed a Motion to Extend Diversion.*

*On September 18, 2006, a warrant was issued for VANDEHEY's arrest for Failure to Appear.*

*On September 26, 2006, VANDEHEY retired from the Oregon State Police.*

*On December 4, 2006, VANDEHEY was convicted of DUII.*

*On November 21, 2007, VANDEHEY was arrested for DUII and DWS.*

*On February 20, 2008, VANDEHEY entered a guilty plea and was convicted of DUII.*

*On April 2, 2008 DPSST obtained VANDEHEY's current address through a DMV address verification.*

*On June 17, 2008, DPSST mailed VANDEHEY a letter advising him that his case would be heard before the Telecommunications Policy Committee and allowing him an opportunity to provide mitigating circumstances for the Committee's consideration. This letter was sent by regular and by certified mail. On July 8, 2008, DPSST received the certified letter back, unclaimed. The letter sent by regular mail was not returned. To date VANDEHEY has not provided any response.*

**DISCUSSION:**

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

**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.

**DISCRETIONARY DISQUALIFYING CONDUCT**

OAR 259-008-0070 specifies discretionary disqualifying conduct which includes criminal convictions and violations of the established moral fitness standards. This rule provides for Committee and Board consideration of aggravating and mitigating circumstances by stating, in part:

...

*(3) Discretionary Grounds for Denying or Revoking Certification of a Public Safety Profession or Instructor: The Department may deny or revoke the certification of any public safety professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:*

...

*(c) 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. (moral fitness)*

and OAR 259-008-0070(5) specifies the procedures to be used by stating, in part:

...

*(C) The Department will seek input from the affected public safety professional or instructor, allowing him or her to provide, in writing, information for the Policy Committee and Board's review.*

*(D) If the Department determines that a public safety professional or instructor may have engaged in discretionary disqualifying conduct listed in subsection (3), the case may be presented to the Board, through a Policy Committee.*

...

*(d) Policy Committee and Board Review: The Policy Committees and Board may consider mitigating and aggravating circumstances in making a decision to deny or revoke certification based on discretionary disqualifying conduct.*

### **Moral Fitness**

OAR 259-008-0011(3) states, in part, "All telecommunicators and emergency medical dispatchers must be of good moral fitness. Moral fitness is described as:

(a) For purposes of this standard, lack of good moral fitness means conduct not restricted to those acts that reflect moral turpitude but rather extending to acts and conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation.

(b) The following are indicators of a lack of good moral fitness:

(A) Illegal conduct involving moral turpitude;

(B) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

(C) Intentional deception or fraud or attempted deception or fraud in any application, examination, or other document for securing certification or eligibility for certification;

(D) Conduct that is prejudicial to the administration of justice;

(E) Conduct that adversely reflects on his or her fitness to perform as a telecommunicator. Examples include but are not limited to: Intoxication while on duty, untruthfulness, unauthorized absences from duty not involving extenuating circumstances, or a history of personal habits off the job which would affect the telecommunicator's performance on the job which makes the telecommunicator both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the telecommunicator's ability to perform competently.

### **Discretionary Disqualifying Convictions:**

OAR 259-008-0070(3) specifies discretionary disqualifying conduct. This rule provides for committee and Board consideration of aggravating and mitigating circumstances by stating, in part:

*“(i) In making a decision on a discretionary denial or revocation the policy committee may use the criminal disqualifier and decision matrix approved by the Board.*

*(ii) The matrix is designed as an aid in guidance to decision-making only and provides parameters for deviation.*

*(iii) Policy committees may consider aggravating and/or mitigating circumstances from the criminal disqualifier matrix for the parameters included but not limited to the list below:*

*(I) Was the conviction a felony, misdemeanor, or violation?*

*(II) How long ago did the conviction occur? (refer to the matrix)*

*(III) Was the person a minor at the time and tried as an adult?*

*(IV) Did it occur before, during, after, or in between employment in law enforcement?*

*(V) Did the individual serve time in prison/jail? If so, how long?*

*(VI) If restitution was involved, has the person met all obligations?*

*(VII) Was the individual on parole or probation? If so, when did the parole or probation end? Is the person still on parole or probation?*

*(VIII) Are there any aggravating or mitigating circumstances that should be considered?*

*(IX) Do the actions violate the rule definition of moral fitness (OAR 259-008-0010(6)), i.e., moral turpitude, dishonesty, fraud, deceit, misrepresentation, conduct prejudicial to the administration of justice, conduct that reflects adversely on the profession, or conduct that would cause a reasonable person to have substantial doubts about the individual's honesty, fairness, respect for the rights of others, or for the laws of the state and/or the nation?*

*(X) How many other convictions does this person have? Over what period of time?*

*(XI) Has this person been convicted of this same crime more than once?*

*(XII) If a DUII, is this the first, second, or third time within the previous 10 years? Has this DUII become a felony (it's a felony if this is the fourth conviction and the last three were within the previous ten-year period)?*

*(XIII) Does this conviction involve any domestic violence situation?*

### **ACTION REQUESTED:**

Staff requests the Telecommunications Policy Committee review the matter and make a recommendation to the Board whether or not to revoke VANDEHEY's certifications, based on a violation of the established moral fitness standards, the discretionary disqualifying convictions, or both, using the following guidelines:

4. By vote, the Committee *does/does not* adopt the staff report and related documents as the record on which the recommendation is based.
5. By discussion and consensus:
  - a. What conduct is at issue? (*The Committee should articulate what conduct they are considering.*)

- b. What specific grounds do the facts relate to? *(The Committee should compare the conduct with the established moral fitness standards in OAR 259-008-0011, and applicable discretionary disqualifying crimes, and articulate which subsection(s) apply.)*
  - c. Is there enough evidence to find, by a preponderance, that the officer engaged in this conduct?
  - d. Does the conduct constitute grounds for revocation? *(There may be one or more separate events.)*
  - e. Does the conduct rise to the level that warrants revocation? *(The Committee should articulate the mitigating or aggravating circumstances they considered when reaching this determination.)*
6. By vote, the Committee *recommends/does not recommend* revocation.