

Department of Public Safety Standards and Training

Fire Certification Program Rule

Update and Explanation

The Oregon Administrative Rules (OAR) relating to requirements for fire service certification as well as the rule governing the denial and revocation of fire service certifications were reviewed. These rules were filed permanently on December 29, 2014. To assist constituents in understanding the recent rule changes, Department of Public Safety Standards and Training (DPSST) is providing the updated OAR language along with a brief explanation of how it applies to Oregon's fire service professionals.

Fire Service Professional Fingerprinting Requirement Update

NOTE TO READER: The following is for information only; it does not require action by the fire service. Fire Service Agencies impacted by this change will be notified by DPSST after receipt of application for certification.

Current statute and OAR prohibit fire service professionals who have been convicted of certain crimes from holding NFPA or Oregon-specific fire service certifications in the state. (Please refer to OAR 259-009-0070 for a complete list of mandatory and discretionary crimes.) This prohibition applies to Oregon convictions as well as convictions in another state of a crime that, if committed in this state, would constitute a disqualifying crime. In order to ensure that applicants for fire service certification have not been convicted of disqualifying crimes, DPSST must conduct a state and national criminal background check.

It was recognized by DPSST, the Fire Policy Committee and the Board on Public Safety Standards and Training (Board) that rule language relating to minimum standards for fire service certifications did not allow DPSST to ensure that an applicant for certification had not been convicted of a disqualifying crime outside of the state of Oregon. (While it is possible to do a computerized check of Oregon criminal history, fingerprints are required to request a nationwide (FBI) criminal background check.)

The OAR has been updated to require any applicant for fire service certification who has never been fingerprinted for the purposes of certification, be fingerprinted. This change does not require action by the fire service agency unless you are notified by DPSST that fingerprints are required. The fire service agency or individual will be responsible for paying the appropriate fingerprinting fees once notified by DPSST. Fire service professionals who have been previously fingerprinted are not required to be re-printed unless they are identified as a multi-source offender (those who have committed a crime in a state other than Oregon) in the Oregon LEDS system as stated in the following rule:

OAR 259-009-0059

*(4) Fingerprints. Any individual utilized by a fire service agency **that has never been fingerprinted** or is identified in the Oregon LEDS system as a multi-source offender is required to be fingerprinted on standard applicant fingerprint cards. The hiring agency is responsible for fingerprinting and must forward one card with the appropriate fees to the Department.*

How does this effect applying for certification?

The initial certificated process will not change based on the new fingerprinting rule. No action needs to be taken until notified by DPSST. Fire service agencies should continue to apply for certification as usual. If it is determined that an applicant needs to be fingerprinted, the fire service agency will be notified via letter detailing the fingerprinting procedures which are as follows:

1. Individual must be fingerprinted on the DPSST fingerprint card provided by DPSST.
2. Return the fingerprint card along with appropriate fees (currently \$42.75 per individual) to DPSST.
3. Once DPSST receives the fingerprint card with appropriate fees, the information will be forwarded to Oregon State Police (OSP)/Federal Bureau of Investigation (FBI) for processing.
4. If the individual has not been convicted of a Measure 11 or discretionary disqualifying crime, the application for certification will be processed and the individual will receive certification.

Discretionary Conviction Section of OAR Update

The internal certification processes for fire service professionals who have been convicted of a mandatory crime as identified in OAR 259-009-0070(3) has not changed. (Conviction of a Measure 11 crime requires revocation of all certifications regardless of the date of conviction.)

The OAR which sets guidelines for denial and revocation based upon discretionary disqualifying convictions has been clarified:

OAR 259-009-0070(5)

(a) The Department may take action on any conviction constituting discretionary disqualifying misconduct identified in section (4) of this rule that occurred after January 15, 2008;

(b) Convictions that occurred seven years or more prior to the date of review may be appropriate for summary staff disposition or administrative closure.

What does this mean to you as a Fire Service Professional?

Individuals who hold certifications or apply for certifications that have been convicted of a discretionary disqualifying conviction after January 15, 2008 will require review by the Fire Policy Committee (FPC) to determine if the conduct that led to the conviction disqualifies the individual for receiving or holding fire certifications. Individuals convicted of a discretionary crime prior to January 15, 2008 will not be reviewed and the application will be processed as usual. Please note: this is not a change in the previous timelines established by the Fire Policy Committee and the Board. The purpose of this rule change was to simply clarify the language relating to the review timelines for discretionary criminal convictions.

Personnel/Agency Form (PAF) Update

DPSST is statutorily required to revoke the certifications of a fire service professional if they are discharged from a fire service agency for cause. (The discharge for cause standard, including DPSST definitions, can be found in OAR 259-009-0070(3)(b).) Previously, the Personnel/Agency Form (PAF) contained one personnel check box to indicate that a fire service professional has been discharged from an agency. This box, if checked, automatically triggered an investigation on that fire service professional regardless of the true reason for discharge. To simplify the notification process for agencies, the discharge section of the PAF has been expanded to include two distinct categories: "Performance" and "Behavior". The purpose of this change is to clearly distinguish the difference between a separation for issues related to performance and behavior. **Performance**, which would not lead to a DPSST investigation, would include such examples as lack of participation. **Behavior** would trigger a DPSST investigation into the discharged fire service professional's conduct. "Performance" and "Behavior" have been defined as follows:

1. Performance: the action or process of carrying out or accomplishing an action, task, or function.
2. Behavior: The way in which someone acts or behaves.

Background Investigations

Because of the nature of the fire service profession and the exposure to vulnerable people, the Fire Policy Committee and the Board recognized the need to conduct thorough background checks on any applicant wishing to become a career or volunteer fire service professional. The following rule language was developed to serve as a guideline for agencies:

Background Investigation

(1) A background investigation must be conducted by a fire service agency on each individual being considered for employment or utilization as a fire service professional to determine if applicant is of good character.

(a) The background investigation must include, but is not limited to, investigation into the following:

(A) Criminal history and arrests;

(B) Department of Motor Vehicles (DMV) records;

(C) Drug and alcohol use;

(D) Education verification;

(E) Employment history;

(F) Military history verification;

(G) Personal and professional references. Personal and professional references may include, but are not limited to, friends, associates, family members, and neighbors;

(H) Personal Interview. The personal interview may occur before or after the investigation and may be used to clarify discrepancies in the investigation;

(I) Records checks, which may include, but are not limited to:

(i) Police records, district attorney, court and Oregon Judicial Information Network (OJIN) records;

(ii) Open sources or social media, as permitted by law;

(iii) Financial information, as permitted by law; and

(iv) Department of Public Safety Standards and Training Professional Standards records.

(J) Residential history; and

(K) Work eligibility.

(b) Each individual being considered for employment or utilization as a fire service professional must provide a notarized personal history statement. The statement must include, but is not limited to:

(A) Verification of the background information referred to in section (1) (a);

(B) A complete list of all fire service agencies an individual has applied with; and

(C) A signed release allowing background investigation information to be shared with other public or private safety agencies in which the applicant may become affiliated with.

(2) Results of the background investigation on all fire service professionals must be retained by the fire service agency in accordance with the Secretary of State's Record Retention Schedule and must be available for review at any reasonable time by the Department.

What does this mean to you as a fire service professional?

Please note, this rule is intended to serve as a resource for fire service agencies. It is not tied to the DPSST certification process, but rather should be used as a tool for the local jurisdiction to use when hiring any career or volunteer fire service professional. The depth and thoroughness into each listed aspect of the background check is up to the individual jurisdiction. DPSST does not conduct background investigations, review background investigations or determine which individuals an agency may hire or not hire.

NOTE: Agencies are not required to perform any background check on fire service professionals affiliated with their agencies prior to December 29, 2014. This requirement applies to individuals applying for a career or volunteer position with a fire service agency after the administrative rule's effective date (December 29, 2014).