

Chapter 259 Department of Public Safety Standards and Training

DIVISION 1

RULEMAKING

259-001-0001	Right to Amend
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
259-001-0010	Notice to Interested Persons on Proposals to Adopt, Amend, or Repeal any Administrative Rule Affecting Polygraph Examiners and Trainees
259-001-0015	Rules of Procedure
259-001-0020	Notice to Interested Persons on Proposals to Adopt, Amend or Repeal any Administrative Rule Affecting the Private Security Industry or Public Safety Agencies

DIVISION 3

DECLARATORY RULINGS

259-003-0015	Rules of Procedure
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DIVISION 5

CONTESTED CASES

259-005-0015	Rules of Procedures
--------------	---------------------

DIVISION 6

POLICY COMMITTEES

259-006-0000	Policy Committees
259-006-0005	Policies and Objectives

DIVISION 7

EXECUTIVE COMMITTEE

259-007-0000	Policy and Procedures
--------------	-----------------------

DIVISION 8

EMPLOYMENT, TRAINING, AND CERTIFICATION

259-008-0000	Policies and Objectives
259-008-0005	Definitions
259-008-0010	Minimum Standards for Employment as a Law Enforcement Officer
259-008-0011	Minimum Standards for Employment as a Telecommunicator and Emergency Medical Dispatcher
259-008-0015	Background Investigation
259-008-0020	Personnel Action Reports
259-008-0025	Minimum Standards for Training
259-008-0030	Extension of the Time Limit for Course Completion
259-008-0035	Waiver for Equivalent Training or Experience — Reciprocity
259-008-0040	Period of Service
259-008-0045	College Education Credits
259-008-0055	Appointment of Committees
259-008-0060	Public Safety Officer Certification
259-008-0064	Maintenance of Certification for Telecommunicators and Emergency Medical Dispatchers
259-008-0065	Maintenance of Certification For Active Police Officers

259-008-0066	Maintenance of Certification for Part-time Parole and Probation Officers
259-008-0067	Lapsed Certification
259-008-0068	Retired Police Officer Certification and Maintenance Standards
259-008-0070	Denial/Revocation
259-008-0072	Department Representative at Contested Case Hearing
259-008-0075	Eligibility for Candidacy for Office of Sheriff
259-008-0076	Eligibility Requirements for Police Chief
259-008-0080	Certification of Instructors
259-008-0085	Certification of Courses and Classes
259-008-0090	Training Records
259-008-0100	Miscellaneous Activities of the Board or Department
259-008-0200	Civil Penalties
259-008-0220	Sanctions, Generally
259-008-0250	Notice of Civil Penalty

DIVISION 9

FIRE SERVICE PROFESSIONALS

259-009-0000	Policies and Objectives
259-009-0005	Definitions
259-009-0010	Personnel Action Forms
259-009-0020	Waiver for Equivalent Training or Experience — Reciprocity
259-009-0025	College Education Credits
259-009-0030	Fire Policy Committee
259-009-0035	Certificates Are Property of Department
259-009-0059	Minimum Standards for Employment as a Fire Service Professional
259-009-0062	Fire Service Personnel Certification
259-009-0063	Credit for Experience
259-009-0065	Maintenance
259-009-0067	Lapsed Certification
259-009-0070	Denial/Revocation
259-009-0072	Department Representative at Contested Case Hearing
259-009-0080	Certification of Instructors
259-009-0085	Certification of Courses and Classes
259-009-0087	Accreditation of Fire Service Agency Training Programs
259-009-0090	Training Records
259-009-0100	Miscellaneous Activities of the Board or Department

DIVISION 12

OREGON PUBLIC SAFETY ACADEMY

259-012-0005	Attendance
259-012-0010	Standards of Conduct
259-012-0035	Penalties

DIVISION 13

CRIMINAL RECORDS CHECK RULES

259-013-0000	Statement of Purpose and Statutory Authority
259-013-0005	Definitions
259-013-0020	Individuals Subject to Criminal Records Checks
259-013-0030	Criminal Records Check Required
259-013-0035	Refusal to Consent to a Criminal records Check
259-013-0040	Oregon Criminal Records Check Process
259-013-0050	National Criminal Records Check Process
259-013-0060	Potentially Disqualifying Crimes
259-013-0070	Record Keeping, Confidentiality
259-013-0080	Immunity from Liability
259-013-0090	Appeal Process
259-013-0300	Fees

Chapter 259 Department of Public Safety Standards and Training

DIVISION 15		259-060-0090	Challenge of Classroom Instruction
REIMBURSEMENT		259-060-0092	Accreditation of Private Security Training Programs
259-015-0000	Eligibility for Reimbursement	259-060-0095	Training Records
259-015-0005	Priorities and Course Requirements for Reimbursement	259-060-0115	Restrictions on Vehicles; Restrictions on Description of Security Services and Providers
259-015-0010	Claims for Reimbursement	259-060-0120	Private Security Professional Certification
DIVISION 20		259-060-0130	Licensing of Executive and Supervisory Manager
POLYGRAPH EXAMINERS LICENSING RULES		259-060-0135	Certification of Private Security Instructors
259-020-0000	Objectives	259-060-0150	Process for Adding Licenses or Certificates
259-020-0005	Definitions	259-060-0300	Denial/Suspension/Revocation
259-020-0010	Minimum Standards for a Polygraph Examiner Trainee License	259-060-0305	Agency Representative in Contested Case Hearings
259-020-0015	Minimum Standards for a Polygraph Examiner	259-060-0450	Compliance
259-020-0020	Special Licenses	259-060-0500	License Fees
259-020-0025	Expiration and Renewal of Licenses	259-060-0600	Forms
259-020-0030	Denial, Suspension, or Revocation of Licenses	DIVISION 61	
259-020-0031	Procedure for Complaints, Denial, Suspension or Revocation	INVESTIGATOR LICENSING STANDARDS AND REGULATIONS	
259-020-0035	License Fees	259-061-0005	Definitions
259-020-0040	License Display and Registry	259-061-0010	Fees
259-020-0045	Polygraph Instruments	259-061-0015	Payment of Fees
259-020-0050	Penalties	Applications	
259-020-0055	Polygraph Licensing Advisory Committee	259-061-0020	Initial and Renewal Applications
259-020-0060	Applications	259-061-0030	Application Requirements for Licensees with Expired Licenses
259-020-0065	Licenses	259-061-0040	Minimum Standards for Licensure
DIVISION 25		259-061-0050	Bonds and Letters of Credit
FEES FOR PUBLISHING, PRINTING, OR COPYING AND OTHER SERVICES		259-061-0055	Errors and Omissions Insurance
259-025-0000	Fees	259-061-0060	Photographs for Identification
DIVISION 30		259-061-0070	Fingerprint ID Cards
DIRECTOR		259-061-0080	References
259-030-0000	Director	259-061-0090	Review of Application Materials
DIVISION 40		Exam	
COMPLIANCE		259-061-0095	Administration of the Exam
259-040-0000	Compliance	259-061-0100	Exam Results
DIVISION 50		259-061-0110	Temporary License
DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING		259-061-0120	Interim Investigators License
259-050-0005	Department of Public Safety Standards and Training	259-061-0130	Copying and Distribution of the Exam
DIVISION 60		Qualifications	
PRIVATE SECURITY SERVICES PROVIDERS RULES		259-061-0140	Educational Substitutes for Experience
259-060-0005	Objectives	259-061-0150	Provisional Investigator Upgrade to Private Investigator
259-060-0010	Definitions	Inactive Status	
259-060-0015	Prohibited Acts	259-061-0160	Applying for Inactive Status
259-060-0020	Minimum Standards for Certification or Licensure	259-061-0170	Applying for Reinstatement to Active Status
259-060-0060	Eight-Hour Basic Classroom Instruction	259-061-0180	Maintaining Current Information
259-060-0065	Written Examinations	Code of Professional Ethics	
259-060-0070	15-Hour Firearms Course and Marksmanship Qualifications	259-061-0190	Code of Ethical Conduct
259-060-0075	Four-Hour Assessment Module	Enforcement and Compliance Procedures	
259-060-0080	Annual and Biennial Refresher Courses of Instruction	259-061-0200	Compliance
259-060-0085	Annual Firearms Marksmanship Requalifications	259-061-0210	Filing a Complaint
		259-061-0220	Form of Complaints
		259-061-0230	Compliance
		Continuing Education	
		259-061-0240	Continuing Education Requirements for Investigator License Renewal
		259-061-0250	Inactive License Continuing Education Requirements

Chapter 259 Department of Public Safety Standards and Training

259-061-0260 Continuing Education (CE) Guidelines

DIVISION 70

PUBLIC SAFETY MEMORIAL FUND

- 259-070-0001** Policies and Objectives
- 259-070-0005** Definitions
- 259-070-0010** Eligibility
- 259-070-0020** Benefits
- 259-070-0050** Transition Process for Current Beneficiaries

DIVISION 1

RULEMAKING

259-001-0001 **Right to Amend**

The Board and the Department reserve the right to amend by deletion or addition to these rules at such time as deemed appropriate, pursuant to ORS 183.335.

Stat. Auth.: ORS 181.640
Stats. Implemented: ORS 181.640
Hist.: PS 12, f. & ef. 12-19-77; PS 1-1983, f. & ef. 12-15-83; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

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), 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 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.

(2) At least twenty-eight (28) days prior to the effective date of the intended action, by mailing or furnishing a copy of the notice to the following:

- (a) Oregon State Sheriff's Association (OSSA);
- (b) Oregon Association Chiefs of Police (OACP);
- (c) Oregon Peace Officers Association (OPOA);
- (d) Oregon Criminal Justice Association (OCJA);
- (e) Oregon Department of Corrections;
- (f) United Press International;
- (g) Associated Press;
- (h) Capitol Building Press Room;
- (i) Oregon Council of Police Associations (OCPA);
- (j) Oregon Department of Justice;
- (k) Oregon State Police Officers Association (OSPOA);
- (l) Federation of Parole & Probation Officers (FPPO);
- (m) Oregon State Police Headquarters;
- (n) Oregon Emergency Management;
- (o) Oregon Chapter/Association of Public Safety Communications Officers (APCO);
- (p) Oregon Fire Chief's Association (OFCA);
- (q) Oregon Health Division, Emergency Medical Services Section;
- (r) Oregon Fire Instructors Association (OFIA);
- (s) Oregon Fire Marshals Association (OFMA);
- (t) Oregon Fire District Directors Association (OFDDA);
- (u) Oregon Volunteer Firefighters Association (OVFA);
- (v) Oregon State Firefighters Council (OSFC);
- (w) League of Oregon Cities (LOC);
- (x) Portland Police Bureau;
- (y) Oregon State Fire Marshal's Office;
- (z) Oregon State Forestry;

- (aa) Federal Bureau of Investigation — Oregon Office;
- (bb) Oregon District Attorneys Association (ODAA);
- (cc) Portland Fire Bureau.

(3) At least twenty-eight (28) days prior to the effective date of the intended action, by mailing a copy of the notice to persons on the Board and Department mailing list established pursuant to ORS 183.335(7).

Stat. Auth.: ORS 181.640
Stats. Implemented: ORS 181.640
Hist.: PS 12, f. & ef. 12-19-77; PS 1-1983, f. & ef. 12-15-83; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

259-001-0010

Notice to Interested Persons on Proposals to Adopt, Amend, or Repeal any Administrative Rule Affecting Polygraph Examiners and Trainees

In accordance with ORS 183.341(4), to provide a reasonable opportunity for interested persons to be notified of the proposed actions affecting polygraph examiners and trainees, the Board and Department shall give notice of the proposed 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.

(2) At least twenty-eight (28) days prior to the effective date of the intended action, by mailing or furnishing a copy of the notice to the following associations:

- (a) Northwest Polygraph Examiner's Association;
- (b) Oregon State Sheriff's Association;
- (c) Oregon Association Chiefs of Police;
- (d) Oregon Peace Officers Association;
- (e) The United Press International;
- (f) Associated Press;
- (g) Capitol Building Press Room;
- (h) Oregon Council of Police Associations;
- (i) Oregon Department of Justice;
- (j) Oregon State Police Officers Association;
- (k) Oregon State Police Headquarters;
- (l) Criminal Justice Services Division of the Executive Department of Oregon;
- (m) Oregon State Bar Association;
- (n) Oregon Department of Corrections.

(3) At least twenty-eight (28) days prior to the effective date of the intended action, by mailing a copy of the notice to persons on the Board and Department mailing list established pursuant to ORS 183.335(7).

Stat. Auth.: ORS 181.640
Stats. Implemented: ORS 181.640
Hist.: PS 12, f. & ef. 12-19-77; PS 1-1983, f. & ef. 12-15-83; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

259-001-0015

Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Board and Department adopt the Attorney General's Model Rules of Procedure applicable to proceedings for agency rulemaking under the most current version of the Administrative Procedures Act in effect.

Stat. Auth.: ORS 181.640
Stats. Implemented: ORS 181.640
Hist.: PS 12, f. & ef. 12-19-77; PS 2-1981, f. & ef. 12-18-81; PS 1-1983, f. & ef. 12-16-83; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 9-2001, f. & cert. ef. 9-19-01

259-001-0020

Notice to Interested Persons on Proposals to Adopt, Amend or Repeal any Administrative Rule Affecting the Private Security Industry or Public Safety Agencies

In accordance with ORS 183.341(4), to provide a reasonable opportunity for interested persons to be notified of the proposed actions affecting the private security industry or public or private safety agencies, the Board and Department shall give notice of the proposed adoption, amendment, or repeal of rule(s):

Chapter 259 Department of Public Safety Standards and Training

(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.

(2) At least twenty-eight (28) days prior to the effective date of the intended action, by mailing or furnishing a copy of the notice to the following associations:

(a) All of the agencies, organizations and entities listed in OAR 259-001-0005(2);

- (b) Private Security Advisory Committee;
- (c) Oregon Private Security Council;
- (d) National Association of Security and Investigative Regulators;
- (e) American Society for Industrial Security;
- (f) Northwest Retail and Loss Prevention Association;
- (g) National Association of School Safety Professionals;
- (h) Oregon Burglar and Fire Alarm Association;
- (i) National Burglar and Fire Alarm Association;
- (j) Associated Oregon Industries;
- (k) Central Station Alarm Association.

(3) At least twenty-eight (28) days prior to the effective date of the intended action, by mailing a copy of the notice to the persons on the Board and Department mailing list established pursuant to ORS 183.335(7).

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878, 183.335 & 183.341(4)

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

DIVISION 3

DECLARATORY RULINGS

259-003-0015

Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Board and Department adopt the Attorney General's Model Rules of Procedure applicable to proceedings for agency declaratory rulings under the Administrative Procedures Act as amended and in effect on September 9, 1995.

Stat. Auth.: ORS 181.640(5) & 703.230(2)

Stats. Implemented: ORS 181.640(5) & 703.23(2)

Hist.: PS 1-1983, f. & cert. ef. 12-15-83; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1997, f. & cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

DIVISION 5

CONTESTED CASES

259-005-0015

Rules of Procedures

Pursuant to the provisions of ORS 183.341, the Board and Department adopt the Attorney General's Model Rules of Procedure applicable to contested cases under the Administrative Procedures Act as amended and in effect on January 1, 2000.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 1-1983, f. & cert. ef. 12-15-83; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1997, f. & cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 6-2000, f. & cert. ef. 9-29-00

DIVISION 6

POLICY COMMITTEES

259-006-0000

Policy Committees

(1) The Board on Public Safety Standards and Training shall establish the following policy committees:

- (a) Corrections Policy Committee;
- (b) Fire Policy Committee;
- (c) Police Policy Committee; and
- (d) Telecommunications Policy Committee.

(2) The members of each policy committee shall select a chairperson and vice chairperson for the policy committee. Only members of the policy committee who are also members of the board are eligible to serve as a chairperson or vice-chairperson. The vice-chairperson may act as chairperson in the absence of the chairperson.

(3) The Corrections Policy Committee consists of:

(a) All of the board members who represent the corrections discipline;

(b) The chief administrative officer of the training division of the Department of Corrections;

(c) A security manager from the Department of Corrections; and

(d) The following, who may not be current board members, appointed by the chairperson of the board:

(A) One person recommended by and representing the Oregon State Sheriffs' Association;

(B) Two persons recommended by and representing the Oregon Jail Managers' Association;

(C) One person recommended by and representing a statewide association of community corrections directors; and

(D) One non-management corrections officer employed by the Department of Corrections.

(4) The Fire Policy Committee consists of:

(a) All of the board members who represent the fire service discipline; and

(b) The following, who may not be current board members, appointed by the chairperson of the board:

(A) One person recommended by and representing a statewide association of fire instructors;

(B) One person recommended by and representing a statewide association of fire marshals;

(C) One person recommended by and representing community college fire programs; and

(D) One non-management firefighter recommended by a statewide organization of firefighters.

(5) The Police Policy Committee consists of:

(a) All of the board members who represent the law enforcement discipline; and

(b) The following, who may not be current board members, appointed by the chairperson of the board:

(A) One person recommended by and representing the Oregon Association of Chiefs of Police;

(B) Two persons recommended by and representing the Oregon State Sheriffs' Association;

(C) One command officer recommended by and representing the Oregon State Police; and

(D) One non-management law enforcement officer.

(6) The Telecommunications Policy Committee consists of:

(a) All of the board members who represent the telecommunications discipline; and

(b) The following, who may not be current board members, appointed by the chairperson of the board:

(A) Two persons recommended by and representing a statewide association of public safety communications officers;

(B) One person recommended by and representing the Oregon Association of Chiefs of Police;

(C) One person recommended by and representing the Oregon State Police;

(D) Two persons representing telecommunicators;

(E) One person recommended by and representing the Oregon State Sheriffs' Association;

(F) One person recommended by and representing the Oregon Fire Chiefs' Association;

(G) One person recommended by and representing the Emergency Medical Services and Trauma Systems Program of the Health Division; and

(H) One person representing paramedics and recommended by a statewide association dealing with fire medical issues.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 10-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 6-2002, f. & cert. ef. 4-3-02; BPSST 5-2003, f. & cert. ef. 4-11-03

259-006-0005

Policies and Objectives

(1) In making appointments to the policy committees under this section, the chairperson of the board shall seek to reflect the diversity of the state's population.

(a) An appointment made by the chairperson of the board must be ratified by the board before the appointment is effective.

(b) The chairperson of the board may remove an appointed member for just cause.

(c) An appointment to a policy committee that is based on the member's employment is automatically revoked if the member changes employment.

(d) The chairperson of the board shall fill a vacancy in the same manner as making an initial appointment.

(e) The term of an appointed member is two years.

(f) An appointed member may be appointed to a second term.

(2)(a) A policy committee may meet at such times and places as determined by the policy committee in consultation with the Board.

(b) A majority of a policy committee constitutes a quorum to conduct business.

(c) A policy committee may create subcommittees if needed.

(3)(a) Each policy committee shall develop policies, requirements, standards and rules relating to its specific discipline.

(A) A policy committee shall submit its policies, requirements, standards and rules to the board for the board's consideration.

(B) When a policy committee submits a policy, requirement, standard or rule to the board for the board's consideration, the board shall:

(i) Approve the policy, requirement, standard or rule;

(ii) Disapprove the policy, requirement, standard or rule; or

(iii) Defer a decision and return the matter to the policy committee for revision or reconsideration.

(b)(A) The board may defer a decision and return a matter submitted by a policy committee under paragraph (a) of this subsection only once.

(B) If a policy, requirement, standard or rule that was returned to a policy committee is resubmitted to the board, the board shall take all actions necessary to implement the policy, requirement, standard or rule unless the board disapproves the policy, requirement, standard or rule.

(c) Disapproval of a policy, requirement, standard or rule under paragraph (a) or (b) of this subsection requires a two-thirds vote by the members of the board.

(4) At any time after submitting a matter to the board, the chairperson of the policy committee may withdraw the matter from the board's consideration.

(5) Past decisions of the advisory committees will not dictate precedence for decisions to be made by the policy committees.

(6) Policy committees are to be governed by the most recent edition of their by-laws.

Stat. Auth.: ORS 181.610 - 181.712

Stats. Implemented: ORS 181.610 - 181.712

Hist.: BPSST 10-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 6-2002, f. & cert. ef. 4-3-02

DIVISION 7

EXECUTIVE COMMITTEE

259-007-0000

Policy and Procedures

(1) An executive committee of the Board on Public Safety Standards and Training is created consisting of the chairperson of the board, the chairpersons of the policy committees created by ORS 181.610 to 182.712 and the chairperson of the Advisory Committee on Private Security Services established in ORS 181.889.

(2) If necessary, the executive committee shall reconcile inconsistencies in policies among the policy committees and the advisory committee. The executive committee shall recommend agenda items for meetings of the board and indicate if a board vote is requested on particular agenda items. The executive committee shall meet as necessary to consider legislative concepts, budgets, grants and other matters that arise between regular board meetings.

(3) Except as otherwise provided in this subsection, only those members of the executive committee who are chairpersons of a

policy or advisory committee may vote. A majority of the executive committee constitutes a quorum to transact business. If the chairperson of the executive committee is not a chairperson of a policy committee, the chairperson may vote only in the case of a tie vote of the other members.

Stat. Auth.: ORS 181.610 - 181.712

Stats. Implemented: ORS 181.610 - 181.712

Hist.: BPSST 11-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 7-2002, f. & cert. ef. 4-3-02

DIVISION 8

EMPLOYMENT, TRAINING, AND CERTIFICATION

259-008-0000

Policies and Objectives

(1) The policies of the Board and Department in response to ORS 181.630 are:

(a) The Board and Department exist to develop talented individuals into public safety providers who are:

(A) Culturally competent;

(B) Ethically, physically and emotionally fit; and

(C) Well trained, highly skilled and responsive to the needs of their communities.

(b) The Board and Department shall promote the safety, efficiency, effectiveness, self-sufficiency and competence of public safety agencies and professionals.

(c) The Board and Department shall support collaboration among public and private security, law enforcement, telecommunications and corrections organizations, the related organizations with whom they work and the interests of the communities they serve.

(d) The Board and Department shall consult with and inform each other fully on matters of public safety standards, training and certification.

(e) The Board may adopt or approve all policies, standards and minimum requirements for public safety certifications and training.

(f) The Department may administer operations and procedures and implement or apply the policies and standards of the Board.

(g) The Department is and remains a full department of the state.

(2) The objectives of the Board and Department are:

(a) To improve public safety services in Oregon by raising the level of competence of police, corrections, parole and probation officers, telecommunicators, emergency medical dispatchers, and support staffs:

(A) By establishing minimum standards for all levels of career development in such matters as employment; promotion; education; physical, emotional, intellectual, and moral fitness; and such other matters that relate to the competence and reliability of persons seeking employment or promotion within the police, corrections, and parole and probation services;

(B) By establishing minimum standards for the training and certification of police, corrections, parole and probation officers, telecommunicators, and emergency medical dispatchers, for all levels of career development, basic through executive;

(C) By providing, sponsoring, certifying or coordinating police, corrections, parole and probation, telecommunication, and emergency medical dispatch training courses.

(b) To conduct, facilitate, and promote studies and research designed to improve public safety within the state, and to assist in the implementation of Board recommendations.

Stat. Auth.: ORS 181.630 & 181.640

Stats. Implemented: ORS 181.630 & 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0000, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 22-2002, f. & cert. ef. 11-18-02

259-008-0005

Definitions

(1) "Assistant Department Head" means an officer occupying the first position subordinate to a Department Head, and is primarily responsible for supervision of middle managers and/or supervisors.

(2) "Board" means the Board on Public Safety Standards and Training.

(3) “Casual employment” means employment that is occasional, irregular, or incidental and the employee does not receive seniority rights nor fringe benefits.

(4) “Certified Reserve Officer” means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181.640.

(5) “Commissioned” means an authorization granting the power to perform various acts or duties of a police officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(6) “Community College” means a public institution operated by a community college district for the purpose of providing courses of study limited to not more than two years full-time attendance and designed to meet the needs of a geographical area by providing educational services, including but not limited to vocational or technical education programs or lower division collegiate programs.

(7) “Corrections Officer” means an officer or member of a law enforcement unit who is employed full-time thereby and is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal offense and confined in a place of incarceration or detention other than a place used exclusively for incarceration or detention of juveniles; and any full-time employee of the Department who possesses requisite qualifications and is so certified pursuant to ORS 181.652.

(8) “Department” means the Department of Public Safety Standards and Training.

(9) “Department Head” means the chief of police, sheriff, or chief executive of a law enforcement unit or a public or private safety agency directly responsible for the administration of that unit.

(10) “Director” means the Director of the Department of Public Safety Standards and Training.

(11) “Educational Credits” are credits earned for studies satisfactorily completed at an accredited post-secondary education institution recognized under 259-008-0025.

(12) “Emergency medical dispatcher” means a person who has responsibility to process requests for medical assistance from the public or to dispatch medical care providers.

(13) “First-Level Supervisor” means a law enforcement officer, telecommunicator, or emergency medical dispatcher occupying a position between the operational level and the middle manager position who is primarily responsible for the direct supervision of subordinates. A first level supervisor position does not include a position with limited or acting supervisory responsibilities.

(14) “Full-time employment” means the employment of a person who has the responsibilities as defined in ORS 181.610(3), (5), (9), (13), (14), (18) of this rule, who has the responsibility for, and is paid to perform the duties described in the above statute and administrative rule for more than 80 hours per month for a period of more than 90 consecutive calendar days. For purposes of this rule, any employment that meets the definition of seasonal, casual, or temporary employment is not considered full-time employment as a public safety professional.

(15) “High School” is a school accredited as a high school by the Oregon Department of Education, or a school accredited as a high school by the recognized regional accrediting body, or a school accredited as a high school by the state university of the state in which the high school is located.

(16) “Law Enforcement Officers” as used throughout this manual collectively means all police, corrections, and parole and probation officers who are included in the Public Safety Standards and Training Act as described in ORS 181.610, and 181.651.

(17)(a) “Law Enforcement Unit” means a police force or organization of the state, a city, port, school district, mass transit district, county, county service district authorized to provide enhanced law enforcement services under ORS 451.010, Indian reservation, Criminal Justice Division of the Department of Justice, the Department of Corrections, the Oregon State Lottery Commission, or common carrier railroad whose primary duty, as prescribed by law, ordinance, or directive, is any one or more of the following:

(A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating to airport security;

(B) The custody, control, or supervision of individuals convicted of or arrested for a criminal offense and confined to a place of incar-

ceration or detention other than a place used exclusively for incarceration or detention of juveniles; or

(C) The control, supervision, and reformation of adult offenders placed on parole or sentenced to probation and investigation of adult offenders on parole or probation or being considered for parole or probation.

(b) “Law enforcement unit” also means a police force or organization of a private entity with a population of more than 1,000 residents in an unincorporated area whose employees are commissioned by a county sheriff.

(18) “Leave of absence” means a leave granted by the employing agency from the public safety officer’s certifiable position as defined in ORS 181.610(3), (5), (9), (13), (14), (18), for more than 90 days but less than two and one-half years,

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

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

(21) “Parole and Probation Officer” means

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

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

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

(b) Any officer who:

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

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

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

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

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

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

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

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

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

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

(27) “Reimbursement” is the money allocated from the Police Standards and Training Account, established by ORS 181.690, to a law enforcement unit meeting the requirements of these regulations to

Chapter 259 Department of Public Safety Standards and Training

defray the costs of officer salaries, relief duty assignments, and other expenses incurred while officers attend approved training courses certified by the Department.

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

(a) Who is a volunteer or who is employed less than full time as a peace officer commissioned by a city, port, school district, mass transit district, county, county service district authorized to provide law enforcement services under ORS 451.010, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or who is a member of the Department of State Police;

(b) Who is armed with a firearm; and

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

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

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

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

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

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

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

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

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0010, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 3-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 7-2000, f. & cert. ef. 9-29-00; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 12-2006, f. & cert. ef. 10-13-06; DPSST 3-2007, f. & cert. ef. 1-12-07

259-008-0010

Minimum Standards for Employment as a Law Enforcement Officer

(1) Citizenship.

(a) A person may not be employed as a corrections officer for more than one year unless the person is a citizen of the United States.

(b) A person may not be employed as a police or parole and probation officer for more than 18 months unless the person is a citizen of the United States.

(2) Age. No law enforcement unit in this state shall employ as a police officer, corrections officer or parole and probation officer, any person who has not yet attained the age of 21 years.

(3) Fingerprints. On or within 90 days prior to the date of employment, each police, corrections, or parole and probation officer shall be fingerprinted on standard applicant fingerprint cards. The hiring agency is responsible for fingerprinting and shall forward two (2) cards to the Oregon State Police Identification Services Section for processing and assignment of identification number.

(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 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 either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section the Department shall 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 be completed and returned to the Department by the applicant pending fingerprint clearance.

(4) Criminal Records. No police, corrections, or parole and probation officer shall 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.

(5) Notification of Conviction:

(a) A law enforcement officer, 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.

(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 the conviction.

(6) Moral Fitness (Moral Character). All law enforcement officers must be of good moral fitness.

(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 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 law enforcement officer. 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 officer's performance on the job which makes the officer both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the officer's ability to perform competently.

(c) If reliable evidence is received by the Board or Department that a law enforcement officer lacks good moral fitness, a rebuttable presumption will be raised that the law enforcement officer does not possess the requisite moral fitness to be a law enforcement officer. The burden shall be upon the law enforcement officer to prove good moral fitness.

(7) Education:

(a) Applicants for the position of a law enforcement officer 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 consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(c) Reading and Writing Standard. Before beginning basic police training, challenging basic police training, or beginning the police career officer development course, each applicant shall provide evidence to DPSST that the applicant has attained a minimum of a 12th grade reading and writing level in the English language.

(A) The hiring agency is responsible for administering a reading and writing instrument, approved by DPSST, and shall forward the results to DPSST on an application for training (Form F-5) prior to the applicant being admitted to basic police training.

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

(8) Physical Examination. All law enforcement officers and applicants must be examined by a licensed physician or surgeon.

(a) The medical examination shall be completed not more than 180 days prior to initial offer of employment, nor more than 90 days after initial offer of employment, and shall conform to applicable standards of the Americans with Disabilities Act (ADA). Title 42 USC 12101.

(b) Individuals who have had a successfully completed 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.

(c) The Department will not require a new physical examination when a law enforcement officer obtains employment, or re-employment, in the same discipline if the officer:

(A) Has had a successfully completed a physical examination, and

(B) Is currently certified; or

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

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

(e) Police, Corrections, and Parole and Probation applicants must meet the following criteria:

(A) Visual Acuity. Corrected vision must be at least 20/30 (Snellen) in each eye. Due to the demonstrated likelihood of dislodgment or breakage, candidates who are able to wear only glasses with frames must meet an uncorrected standard not worse than 20/100 (Snellen) in each eye. Those candidates who use soft contact lenses (SCLs) must have vision correctable to at least 20/30 in each eye, with no uncorrected standard, provided the employing agency will monitor compliance. Replacement glasses or lenses (as appropriate) must be on the person or readily available at all times during each work shift.

(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 DPSST.

(C) Depth Perception. Depth Perception must be sufficient to demonstrate stereopsis adequate to perform the essential tasks of the job. The recommended test is the Random Stereo Test with 60 seconds of arc.

(D) Peripheral Vision. Visual Field Performance must be 140 degrees in the horizontal meridian combined.

(E) Night Blindness. A history of night blindness should be evaluated to determine applicant's capacity to perform essential tasks at night or in dark or low light settings.

(f) Applicants for the position of police or corrections officer must have sufficient hearing in both ears to perform essential tasks without posing a direct threat to themselves or others. The applicant must have no average loss greater than 25 decibels (db) at the 500, 1,000, 2,000 and 3,000-Hertz levels in either ear with no single loss in excess of 40 db.

(g) Applicants for the position of parole and probation officer must have sufficient hearing in both ears to perform essential tasks without posing a direct threat to themselves or others. The applicant

must have no average loss greater than 35 decibels (db) at the 500, 1000, 2000, and 3000 Hertz levels in either ear with no single loss in excess of 45 db.

(h) If amplification device(s) is (are) necessary to meet the criteria in (f) or (g) above, or if applicant cannot meet the above criteria and wishes to pursue application, applicant must:

(A) Obtain a hearing evaluation by a licensed audiologist or otorhinolaryngologist (ear, nose, throat) to determine current hearing aid requirement; and

(B) Achieve a Speech Reception Threshold (SRT) of no greater than 25 db for each ear;

(C) Police, corrections and parole and probation officers must achieve a Speech Discrimination test score of no less than 90% utilizing a standard 50-word presentation at 60 db Hearing Threshold Level (HTL). The Department may require an applicant to have another examination by a licensed audiologist or otorhinolaryngologist (ear, nose, and throat) designated by the Department to verify that the applicant's hearing meets the Board's minimum hearing standard. The verification examination will be at the expense of the applicant or the applicant's employing agency. The equipment utilized for all of these evaluations must be calibrated annually using current ANSI standards.

(D) Hearing amplification devices used to meet the hearing standard must be the type that protects the applicant from further hearing degradation due to amplification of loud sounds.

(i) Applicants for the position of police, corrections, or parole and probation officer must be able to use vocal chords and have significant speaking ability to perform speaking-related essential tasks. For police and corrections officers abnormalities of the nose, throat or mouth must not interfere with the applicant's breathing or proper fitting of gas mask or similar device.

(j) Applicants for the position of police, corrections, or parole and probation officer who have a history of organic cardio-vascular disease or a finding during the medical examination of organic cardio-vascular disease will necessitate further medical evaluation.

(A) Resting blood pressure must be less than or equal to 140 mmHg systolic and 90 mmHg diastolic on three successive readings.

(B) Applicants must not have a functional and therapeutic cardiac classification greater than the Heart Association's Class A.

(C) Failure to meet guidelines (j), (A) and (B) will require further medical evaluation.

(D) If the applicant has controlled hypertension not exceeding the above standards and is on medication with side effect profiles, which do not interfere with performance of duty, then the condition may not be excludable.

(E) Functional Capacity I patients with cardiac disease may not be excludable, if they have no limitations of physical activity and ordinary physical activity does not cause discomfort and they do not have symptoms of cardiac insufficiency, nor experience angina pain.

(F) Therapeutic Classification A patients with cardiac disease, whose physical activity is restricted, should be evaluated thoroughly.

(G) If further medical examination is required under (j), it will be at the expense of the applicant or hiring authority.

(k) All law enforcement applicants must submit a current-version DPSST Medical Examination Report (DPSST Form F2), or a medical report completed by a licensed physician containing at a minimum the information on Form F2 and a signed statement by the examining physician that the applicant does not have any condition, physical, mental, or emotional, which, in his/her opinion, suggests further examination. This Report will be furnished to the examining physician by the hiring agency. The physician must indicate that the applicant is or is not physically able to perform the duties of a law enforcement officer as prescribed by DPSST.

(l) 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.

(m) 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.

(n) The Board may waive any physical requirement where, in its judgment, the waiver would not be detrimental to the performance of an officer's duties, including the protection of the public and the safety of co-workers. The applicant may be required to demonstrate the ability to perform the essential functions of the job.

(o) A person or department head requesting a waiver of any physical requirement set forth in section (8) of this rule shall 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. The Board or Department may require additional documentation or testimony by the person or department head requesting the waiver if clarification is needed. Any expense associated with providing documentation or testimony will be borne by the person requesting the waiver or the requesting agency. 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) 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) If the Board denies a request for a waiver of any physical requirement set forth in section (8) of this rule, the Department will issue Notice and proceed as provided in section (9) of this rule.

(9) Contested Case Hearing Process for denial of waiver.

(a) Initiation of Proceedings: Upon determination that the reason for denial of a waiver is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared.

(b) Contested Case Notice: The "Contested Case Notice" will be prepared in accordance with the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department will have a copy of the notice served on the public safety professional or individual.

(c) Response Time: A party who has been served with a "Contested Case Notice" has 60 days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(d) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying the requested waiver.

(e) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Office of Administrative Hearings.

(f) Proposed Order: The assigned Administrative Law Judge will prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

(g) Exceptions and Arguments: A party must file specific written exceptions and arguments with the Department no later than 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order.

(A) The Department may extend the time within which the exceptions and arguments must be filed upon a showing of good cause.

(B) When the exceptions and arguments are filed, the party making the exceptions and arguments must serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.

(h) Final Order: The Department will issue a final order if a public safety professional or individual fails to file exceptions and arguments in a timely manner.

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

Stat. Auth.: ORS 181.640, 181.644, 183.341

Stats. Implemented: ORS 181.640, 181.644, 183.341

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; PS 1-1987, f. & ef. 10-26-87; Renumbered from 259-010-0015, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 4-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 1-1999, f. & cert. ef. 3-9-99; BPSST 9-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 3-2001, f. & cert. ef. 8-22-01; BPSST 12-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 5-2002(Temp), f. 4-3-02, cert. ef. 4-6-02 thru 8-1-02; BPSST 16-2002, f. & cert. ef. 7-5-2002; BPSST 20-2002, f. & cert. ef. 11-21-02; DPSST 3-2003, f. & cert. ef. 1-22-03; DPSST 6-2003, f. & cert. ef. 4-11-03; DPSST 8-2003, f. & cert. ef. 4-18-03; DPSST 14-2003, f. & cert. ef. 12-22-03; DPSST 3-2006, f. & cert. ef. 2-28-06; DPSST 12-2006, f. & cert. ef. 10-13-06; DPSST 10-2007, f. & cert. ef. 10-15-07; DPSST 13-2007(Temp), f. & cert. ef. 11-1-07 thru 4-18-08; DPSST 1-2008(Temp), f. & cert. ef. 1-15-08 thru 4-18-08; DPSST 4-2008, f. & cert. ef. 4-15-08

259-008-0011

Minimum Standards for Employment as a Telecommunicator and Emergency Medical Dispatcher

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

(a) The hiring agency, if a public agency, is responsible for fingerprinting and shall 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 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 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 either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section, the Department shall 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 be completed and returned to the Department by the applicant pending fingerprint clearance.

(2) Criminal Records. No telecommunicator or emergency medical dispatcher shall 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) Moral Fitness (Moral Character). All telecommunicators and emergency medical dispatchers must be of good moral fitness.

(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 or emergency medical dispatcher. 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 or emergency medical dispatcher's performance on the job which makes the telecommunicator or emergency medical dispatcher both inefficient and otherwise unfit to render effective service because of the agency's and/or public's loss of confidence in the telecommunicator or emergency medical dispatcher's ability to perform competently.

(c) If reliable evidence is received by the Board or Department that a telecommunicator or emergency medical dispatcher lacks good moral fitness, a rebuttable presumption will be raised that the telecommunicator or emergency medical dispatcher does not possess the requisite moral fitness to be a telecommunicator or emergency medical dispatcher. The burden shall be upon the telecommunicator or emergency medical dispatcher to prove good moral fitness.

(4) 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 consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(5) Reading and Writing Standard. Before beginning basic telecommunicator or Emergency Medical Dispatcher (EMD) training or challenging basic telecommunicator training, each applicant shall provide evidence to DPSST that the applicant has attained a minimum of a 12th grade reading and writing level in the English language.

(A) The hiring agency is responsible for administering a reading and writing instrument, approved by DPSST, and shall forward the results to DPSST on an application for training (Form F-5) prior to the applicant being admitted to basic telecommunicator or EMD training.

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

(6) Physical Examination. All Telecommunicators and Emergency Medical Dispatcher applicants must be examined by a licensed physician.

(a) The medical examination must be completed not more than 180 days prior to initial offer of employment, nor more than 90 days after initial offer of employment, and must conform to applicable standards of the Americans with Disabilities Act (ADA). Title 42 USC 12101.

(b) Individuals who have had a successfully completed 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.

(c) 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) Notwithstanding subsection (c), a medical examination may be required by a hiring agency at its discretion.

(e) 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 DPSST. 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 (c) 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) 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) Applicants for the position of Telecommunicator or Emergency Medical Dispatcher must be able to use vocal cords and have significant speaking ability to perform speaking-related essential tasks.

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

(8) All Telecommunicator and Emergency Medical Dispatcher applicants must submit a current-version DPSST Medical Examination Report for Telecommunicators and Emergency Medical Dispatchers (DPSST Form F-2T), or a medical report completed by a licensed physician containing at a minimum the information on Form F-2T. This Report will be furnished to the examining physician 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. The Board or Department may require additional documentation or testimony by the person or department head requesting the waiver if clarification is needed. Any expense associated with providing documentation or testimony will be borne by the person requesting the waiver or the requesting agency. 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) 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) If the Board denies a request for a waiver of any physical requirement set forth in section (8) of this rule, the Department will issue Notice and proceed as provided in section (9) of this rule.

(9) Contested Case Hearing Process for denial of waiver.

(a) Initiation of Proceedings: Upon determination that the reason for denial of a waiver is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared.

(b) Contested Case Notice: The "Contested Case Notice" will be prepared in accordance with the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department will have a copy of the notice served on the public safety professional or individual.

(c) Response Time: A party who has been served with a "Contested Case Notice" has 60 days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(d) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying the requested waiver.

(e) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Office of Administrative Hearings.

(f) Proposed Order: The assigned Administrative Law Judge will prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

(g) Exceptions and Arguments: A party must file specific written exceptions and arguments with the Department no later than 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order.

(A) The Department may extend the time within which the exceptions and arguments must be filed upon a showing of good cause.

(B) When the exceptions and arguments are filed, the party making the exceptions and arguments must serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.

(h) Final Order: The Department will issue a final order if a public safety professional or individual fails to file exceptions and arguments in a timely manner.

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

Stat. Auth.: ORS 181.640, 181.644, 183.341

Stats. Implemented: ORS 181.640, 181.644, 183.341

Hist.: BPSST 1-2002, f. & cert. ef. 2-6-02; DPSST 1-2004, f. 1-16-04, cert. ef. 1-20-04; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 10-2007, f. & cert. ef. 10-15-07; DPSST 5-2008, f. & cert. ef. 4-15-08

259-008-0015

Background Investigation

(1) A personal history investigation shall be conducted by the employing agency on each law enforcement officer being considered for employment to determine if applicant is of good moral fitness.

(2) Results of the personal history investigation on all officers shall be retained by the employing agency and shall be available for review at any reasonable time by representatives of the Department.

(3) All applicants for law enforcement officer shall be interviewed personally, prior to employment, by the department head or an authorized representative.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0021, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

259-008-0020

Personnel Action Reports

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

(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.]

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; Renumbered from 259-010-0050, PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0026, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 2-2001, f. & cert. ef. 2-8-01; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 5-2004, f. & cert. ef. 4-23-04

259-008-0025

Minimum Standards for Training

(1) Basic Course:

(a) Except as provided in 259-008-0035, all law enforcement officers, telecommunicators, and emergency medical dispatchers shall satisfactorily complete the prescribed Basic Course, including the field training portion. The Basic Course and field training portion shall be completed within twelve months from the date of employment by corrections officers and within 18 months by police officers, parole and probation officers, telecommunicators, and emergency medical dispatchers.

(b) The field training program shall be conducted under the supervision of the employing department. When the field training manual is properly completed, the sign-off pages of the field training manual shall be forwarded to the Department. Upon the approval of the Department, the employee shall receive credit toward basic certification.

(c) Effective July 1, 2007, all police officers must satisfactorily complete the Department's physical fitness standard. The Department's physical standard is:

(A) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested upon entry at the Basic Police Course; or

(B) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested prior to graduation from the Basic Police Course.

(d) Law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as defined in ORS 181.610, subsections (5), (13) and (14), and OAR 259-008-0005, subsections (7), (19), (23), and (24), during the last five (5) years or more, shall satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon a finding that the applicant has current knowledge and skills to perform as an officer.

(e) Telecommunicators and emergency medical dispatchers who have previously completed the Basic Course, but have not been employed as a telecommunicator or EMD, as described in ORS 181.610(9) and (18) and 259-008-0005(14) and (32) for two and one-half (2-1/2) years or more, must satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon finding that a Telecommunicator has current knowledge and skills to perform as a Telecommunicator. There is no waiver available for an emergency medical dispatcher.

(f) Previously employed telecommunicators may challenge the Basic Telecommunications Course based on the following criteria:

(A) The department head of the applicant's employing agency shall submit the "challenge request" within the time limits set forth in the Oregon Revised Statutes and Oregon Administrative Rules.

(B) The applicant shall provide proof of successful completion of prior equivalent training.

(C) The applicant shall provide documentation of the course content with hour and subject breakdown.

(D) The applicant shall obtain a minimum passing score on all written examinations for the course.

(E) The applicant shall demonstrate performance at the minimum acceptable level for the course.

(F) Failure of written examination or demonstrated performance shall require attendance of the course challenged.

(G) The applicant shall only be given one opportunity to challenge a course.

(g) Previously employed police officers, corrections officers and parole and probation officers who are required to attend the Basic Course may not challenge the Basic Course.

(h) All law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as described in ORS 181.610(5), (13) and (14), and OAR 259-008-0005(7), (19), (23) and (24) over two and one-half (2-1/2) but less than five (5) years shall complete a Career Officer Development Course if returning to the same discipline. This requirement may be waived after a staff determination that the applicant has demonstrated the knowledge and skills required for satisfactory completion of a Career Officer Development Course.

Chapter 259 Department of Public Safety Standards and Training

(i) Corrections and police officers who have not completed the Basic Course shall begin training at an academy operated by the Department within 90 days of their initial date of employment. A 30-day extension of this time period shall be granted by the Board or its designee upon receipt of a written statement of the reasons for the delay from the officer's employer. Any delays caused by the inability of the Department to provide basic training for any reason, shall not be counted as part of the periods set forth above (refer to ORS 181.665 and 181.652).

(j) Law enforcement officers who have previously completed a basic training course out of state while employed by a law enforcement unit, or public or private safety agency, may, upon proper documentation of such training and with approval of the Department, satisfy the requirements of this section by successfully completing a prescribed Career Officer Development Course or other appropriate course of instruction.

(k) The basic course for police officers must include:

(A) Training on the law, theory, policies and practices related to vehicle pursuit driving;

(B) Vehicle pursuit training exercises, subject to the availability of funding; and

(C) A minimum of 24 hours of training in the recognition of mental illnesses utilizing a crisis intervention training model.

(2) Career Officer Development Course:

(a) All law enforcement officers who have not been employed as such for between two and one half (2 1/2) and five (5) years, shall satisfactorily complete the Career Officer Development Course approved by the Department.

(b) A law enforcement officer assigned to a Career Officer Development Course shall also complete the Board's field training program under the supervision of the employing department and submit to the Department a properly completed Field Training Manual. The Department may waive the Field Training Manual requirement upon demonstration by the employing agency that it is not necessary. See 259-008-0025(1)(b).

(c) The Department may also require successful completion of additional specified courses or remedial training.

(3) Supervision Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a first-level supervisory position shall satisfactorily complete the prescribed Supervision Course within 12 months after initial promotion, appointment, or transfer to such position. This section shall apply whether the individual is promoted or transferred from within a department, or is appointed from an outside department, without having completed a prescribed Supervision Course, within the preceding five (5) years.

(4) Middle Management Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a middle management position must satisfactorily complete the prescribed Middle Management Course within 12 months after initial promotion, appointment, or transfer to such position. This section shall apply whether the individual is promoted or transferred to a middle management position within a department, or employed from outside a department and appointed to a middle manager position without having completed a prescribed middle management course within the preceding five (5) years.

(5) Specialized Courses:

(a) Specialized courses are optional and may be presented at the Academy or regionally. The curriculum is generally selected because of relevancy to current trends and needs in police, corrections, parole and probation, telecommunications, and emergency medical dispatch fields, at the local or statewide level.

(b) Specialized courses may be developed and presented by individual departments of the criminal justice system, local training districts, a college, the Department, or other interested persons. The staff may be available to provide assistance when resources are not available in the local region.

(c) Police officers, including certified reserve officers, shall be trained on how to investigate and report cases of missing children and adults.

(A) The above mandated training is subject to the availability of funds.

(B) Federal training programs shall be offered to police officers, including certified reserve officers, when they are made available at no cost to the state.

(6) Waiver. A person requesting a waiver of any course requirements is required to submit to the Department any supporting documents or pertinent expert testimony and evaluation requested. Any expense associated with providing such documentation, testimony or evaluation shall be borne by the person requesting the waiver or the requesting agency.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1982, f. & ef. 7-2-82; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0030, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 5-1997, f. & cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 13-2001(Temp), f. & cert. ef. 10-26-01 thru 4-10-02; BPSST 2-2002, f. & cert. ef. 2-6-02; BPSST 8-2002, f. & cert. ef. 4-3-02; BPSST 15-2002, f. & cert. ef. 7-5-02; DPSST 14-2003, f. & cert. ef. 12-22-03; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 3-2007, f. & cert. ef. 1-12-06; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 9-2008, f. & cert. ef. 7-15-08; DPSST 14-2008, f. & cert. ef. 10-15-08

259-008-0030

Extension of the Time Limit for Course Completion

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

Stat. Auth.: ORS 181.644, 181.651, 181.653 & 181.665

Stats. Implemented: ORS 181.644, 181.651, 181.653 & 181.665

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0035, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; DPSST 5-2004, f. & cert. ef. 4-23-04

259-008-0035

Waiver for Equivalent Training or Experience — Reciprocity

(1) The Board or its designee may waive the completion of any course required by OAR 259-008-0025 upon presentation of documentary evidence by a law enforcement unit or public or private safety agency that a law enforcement officer, telecommunicator, or emergency medical dispatcher has satisfactorily completed equivalent training or experience.

(2) In order to be considered for equivalency, training received in a state with laws governing or regulating training of law enforcement officers shall, if subject to such review, have been approved or certified by the employing agency in the state in which the training was received.

(3) The Department may elect to prescribe as a condition of certification successful completion of specified courses or remedial training.

(4) The Department may enter into standing reciprocity compacts or agreements with those states which by law regulate and supervise the quality of police, corrections, parole and probation, telecommunications, emergency medical dispatch, and which require a minimum number of hours of classroom training equivalent to standards established by the Board.

Stat. Auth.: ORS 181.660

Stats. Implemented: ORS 181.660

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0045, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 22-2002, f. & cert. ef. 11-18-02

259-008-0040

Period of Service

(1) A law enforcement officer, telecommunicator, or emergency medical dispatcher not currently certified shall satisfactorily complete a period of service of not less than nine (9) months in the field in which they are employed, to be eligible for certification. This requirement shall not apply to a department head.

(2) No person shall be employed as a police officer, parole and probation officer, telecommunicator, or emergency medical dispatcher for more than 18 months unless that officer, telecommunicator, or emergency medical dispatcher has been certified under the provisions of ORS 181.610 to 181.705 and the certification has neither lapsed nor been revoked.

(3) No person shall be employed as a corrections officer for more than one (1) year unless that officer has been certified under the provisions of ORS 181.610 to 181.705 and the certification has neither lapsed nor been revoked.

(4) The Board or its designee, upon the facts contained in an affidavit accompanying the request for an extension, may find good cause for failure to obtain certification within the time period described in section (2) of this rule. If the Board finds that there is good cause for such failure, the Board may extend for up to one year the period that a person may serve as a law enforcement officer, telecommunicator, or emergency medical dispatcher without certification. The grant or denial of such an extension is within the sole discretion of the Board.

(5) The Board, or its designee, may further extend the time period for a law enforcement officer, telecommunicator, or emergency medical dispatcher who has been deployed to full-time active military duty during the time period described in section (2) or (3) of this rule. Conditions for certification upon an officer's return to his/her employer, may include, but are not limited to:

- (a) Remediation of Basic course;
- (b) Successful completion of Career Officer Development Course;
- (c) Demonstrated proficiency of skills and ability;
- (d) F-2 (Medical Form).

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

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; Renumbered from 259-010-0020, PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0047, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 13-2001(Temp), f. & cert. ef. 10-26-01 thru 4-10-02; BPSST 8-2002, f. & cert. ef. 4-3-02; DPSST 7-2005, f. & cert. ef. 8-5-05

259-008-0045

College Education Credits

(1) Credit for preservice or inservice college education will not be accepted in lieu of the Basic Course described in OAR 259-008-0025.

(2) College credits must be combined with experience and training in determining eligibility for Intermediate, Advanced, Supervisory, Management, and Executive Certification.

(3) College credits or degrees used for certification must have been earned from the following:

- (a) A degree-granting community college, college or university accredited by a recognized national or regional accrediting body; or
- (b) A community college, college or university whose coursework or degree has been accepted for credit by a degree granting community college, college or university accredited by a recognized national or regional accrediting body.

(c) A degree-granting college or university recognized by the Oregon Office of Degree Authorization under the provisions of ORS 348.604.

(d) For purposes of this rule, a recognized national or regional accrediting body is one recognized by the U.S. Department of Education, or the Council on Higher Education Accreditation (CHEA), or its predecessor.

(4) Any college credits obtained in a foreign country, which are claimed to be comparable to credits or a degree granted by a licensing body in the United States or US Territories must be evaluated by a credentialing agency that is a member of the National Association of Credential Evaluation Services (NACES). The credentialing agency must send an evaluation to the Department for approval, at the applicant's expense, before any educational credit is accepted as equivalent.

(5) Certification Credit. The Department must receive sealed official transcripts from a college prior to entering college credit on an applicant's official record. Evaluation of these credits is subject to the conditions prescribed in sections (3) and (4) of this rule and OAR 259-008-0060.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; Renumbered from 259-010-0025, PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0051, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 5-1999, f. & cert. ef. 7-29-99; BPSST 4-2001, f. & cert. ef. 8-22-01; DPSST 4-2006, f. & cert. ef. 2-28-06; DPSST 9-2008, f. & cert. ef. 7-15-08

259-008-0055

Appointment of Committees

(1) Appointment of Committees: The Board may establish committees to study issues relevant to the Board's jurisdiction, and to assist in the conduct of its business. The Board may appoint individual Board members to serve as liaison to such other groups, committees, or organizations as deemed appropriate.

(2) Policy Committees: The Board shall establish policy committees pursuant to OAR 259-006-0000.

Stat. Auth.: ORS 181.640 & 181.765

Stats. Implemented: ORS 181.640 & 181.765

Hist.: PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 10-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 6-2002, f. & cert. ef. 4-3-02

259-008-0060

Public Safety Officer Certification

(1) Basic, Intermediate, Advanced, Supervisory, Management, Executive and Instructor Certificates are awarded by the Department to law enforcement officers and telecommunicators meeting prescribed standards of training, education, experience; and the levels established by the employing law enforcement units, or public or private safety agencies. Emergency medical dispatchers may be awarded basic certification only.

(2) Basic certification is mandatory and shall be acquired by all police officers, telecommunicators, and emergency medical dispatchers within 18 months of employment, and by all corrections officers within one year of employment unless an extension is granted by the Department.

(3) To be eligible for the award of a certificate, law enforcement officers shall be full-time employees as defined by ORS 181.610 and OAR 259-008-0005 or part-time parole and probation officers, as described in ORS 181.610 and OAR 259-008-0066.

(4) To be eligible for the award of a certificate, law enforcement officers shall meet the Board's prescribed minimum employment standards as established by OAR 259-008-0010.

(5) To be eligible for the award of a certificate, telecommunicators must meet the Board's prescribed minimum employment standards as established by OAR 259-008-0011.

(6) To be eligible for the award of a certificate, law enforcement officers shall subscribe to and swear or affirm to abide by the Criminal Justice Code of Ethics (Form F11). Telecommunicators and emergency medical dispatchers shall subscribe to and swear or affirm to abide by the Telecommunicator Code of Ethics. (Form F-11T).

(7) Application for certification must be submitted on Form F7, with all applicable sections of the form completed. The form shall be signed by the applicant. In order to insure that the applicant does or does not meet the minimum standards of employment, training, education, and experience, and is competent to hold the level of certification for which the applicant has applied, the department head or authorized representative shall sign the form recommending that the certificate be issued or withheld. If the department head chooses not to recommend the applicant's request for certification, the reason for this decision shall be specified in writing and shall accompany the Application for Certification (Form F7).

(8) When a department head is the applicant, the above recommendation shall be made by the department head's appointing authority such as the city manager or mayor, or in the case of a specialized agency, the applicant's superior. Elected department heads are authorized to sign as both applicant and department head.

(9) In addition to the requirements set forth above, each applicant, for the award of an Intermediate, Advanced, Supervisory, Management, or Executive Certificate, shall have completed the designated education and training, combined with the prescribed corrections, parole and probation, police or telecommunications experience.

(a) Each quarter credit unit granted by an accredited college or university which operates on a quarterly schedule shall equal one (1) education credit

(b) Each semester credit unit granted by an accredited college or university operating on a semester schedule shall equal one and one half (1-1/2) education credits.

(c) The Department must receive sealed official transcripts from a college prior to entering college credit on an individual's official record.

(10) Training Points. Twenty (20) classroom hours of job-related training approved by the Department shall equal one (1) training point. (Example: 200 training hours equal 10 training points.)

(a) Basic, Intermediate, Advanced, Supervisory, Middle Management, Executive, or Specialized courses certified, sponsored, or presented by the Department shall be approved.

(b) The Department may award training points for departmental or other in-service training which is recorded and documented in the personnel files of the trainee's department. These records shall include the subject, instructor, classroom hours, date, sponsor, and location.

(c) Training completed in other states, military training, and other specialized training, if properly documented may be accepted, subject to staff evaluation and approval. These records shall include the subject, date, and classroom hours, and shall be certified true copies of the original.

(d) Upon receipt of documentation which shall include the source, syllabus, number of hours, dates and successful completion of the course, the Department or its designated staff may award training points for correspondence courses.

(e) College credits earned may be counted for either training points or education credits, whichever is to the advantage of the applicant.

(f) College credit awarded based on training completed may be applied toward either training points or education credits, whichever is to the advantage of the applicant.

(A) Prior to applying an applicant's college credit toward any upper level of certification, the Department must receive documentation of the total number of training hours for which college credit was awarded.

(B) The training hours identified under paragraph (A) and submitted as college credit toward an upper level of certification will not be included in any calculation of whether the applicant has earned sufficient training hours to qualify for the requested certification level(s).

(C) Notwithstanding subsection (f) and (g) above, no credit can be applied toward both an education credit and training point when originating from the same training event.

(11) Experience/Employment:

(a) Experience acquired as a corrections, parole and probation, or police officer employed full time with municipal, county, state, or federal agencies, may be accepted if the experience is in the field in which certification is requested and is approved by the Department. For the purpose of this rule, casual, seasonal, or temporary employment shall not qualify as experience toward certification. Experience as a certified part-time parole and probation officer, as defined under OAR 259-008-0005(22) and (23) and OAR 259-008-0066, shall count on a pro-rated basis.

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

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

(12) The Basic Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Basic Certificate:

(a) Applicants shall have completed a period of service of not less than nine (9) months with one or more law enforcement units, or public or private safety agencies in a certifiable position, in the field in which certification is being requested.

(b) Applicants shall have satisfactorily completed the required Basic Course in the field in which certification is requested or have completed equivalent training as determined by the Department.

(c) Applicants shall have valid first aid and cardiopulmonary resuscitation (CPR) card(s).

(13) The Intermediate Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Intermediate Certificate:

(a) Applicants shall possess a Basic Certificate in the field in which certification is requested.

(b) Applicants shall have acquired the following combinations of education and training points combined with the prescribed years of police, corrections, parole and probation or telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

(14) The Advanced Certificate. In addition to the requirements set forth in section (1) of this rule, the following are required for the award of the Advanced Certificate:

(a) Applicants shall possess or be eligible to possess the Intermediate Certificate in the field in which certification is requested.

(b) Applicants shall have acquired the following combinations of education and training points combined with the prescribed years of corrections, parole and probation, police, telecommunications experience, or the college degree designated combined with the prescribed years of experience: [Table not included. See ED. NOTE.]

(15) The Supervisory Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Supervisory Certificate:

(a) Applicants shall possess or be eligible to possess the Advanced Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 45 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed the prescribed Supervision Course or an equivalent number of hours of Department approved supervisory level training within five (5) years prior to application for the Supervisory Certificate.

(d) Applicants shall be presently employed in, or have satisfactorily performed the duties associated with the position of a first level supervisor, as defined in ORS 181.610 and OAR 259-008-0005(16), as attested to by the applicant's department head during the time such duties were performed, for a period of one (1) year. The required experience shall have been acquired within five (5) years prior to the date of application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, supervisory duties.

(16) The Management Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Management Certificate:

(a) Applicants shall possess or be eligible to possess the Supervisory Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 90 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed the prescribed Middle Management Course or an equivalent number of hours of Department approved management level training within five (5) years prior to application for the Management Certificate.

(d) Applicants shall be presently employed in, and shall have served satisfactorily in a Middle Management position, as an Assistant Department Head, or as a Department Head as defined in ORS 181.610 and OAR 259-008-0005, for a period of two (2) years. The required experience must have been acquired within five (5) years prior to the date of application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, management duties.

(17) The Executive Certificate. In addition to requirements set forth in section (1) of this rule, the following are required for the award of the Executive Certificate:

(a) Applicants shall possess or be eligible to possess the Management Certificate in the field in which certification is requested.

(b) Applicants shall have satisfactorily completed no less than 90 education credits as defined in section (10) of this rule.

(c) Applicants shall have satisfactorily completed 100 hours of Department approved executive level training within five (5) years prior to application for the Executive Certificate.

(d) Applicants shall be presently employed in, and shall have served satisfactorily in a Middle Management position, as an Assistant Department Head, or as a Department Head as defined in OAR 259-008-0005, for a period of two (2) years. The required experience must have been acquired within five (5) years prior to the date of the application.

(e) Upon request of the employing agency, the Department may waive the requirements of subsection (d) of this section, provided the employing agency demonstrates that the applicant performs, on a regular basis, the duties associated with that of a department head or assistant department head.

(18) Multi-discipline Certification. Upon receiving written request from the department head stating a justified and demonstrated need exists for the efficient operation of the employing agency, the Department may approve multi-discipline certification for law enforcement officers who meet all minimum employment, training and education standards established in OAR 259-008-0010, 259-008-0025, and this rule, in the disciplines which they are requesting certification. The officer shall meet the following requirements for the award of multi-discipline certification:

(a) Basic certification: A person who is certified in one discipline may apply for multi-discipline certification, if employed in or transferred to another discipline within the same law enforcement unit. The applicant shall demonstrate completion of all training requirements in the discipline in which certification is being requested.

(b) Higher levels of certification: Law enforcement officers who possess higher levels of certification in one discipline may, upon employment in or transfer to another discipline within the same law enforcement unit, apply for the same level of certification after completion of nine (9) months experience in the discipline in which they are requesting certification, and meeting the requirements for those higher levels of certification as outlined in this rule. This section does not apply to the EMD discipline since it only exists at the basic certification level.

(c) Retention of Multi-discipline certification. In order to maintain multi-discipline certification, each discipline in which certification is held requires successful completion and documentation of training hours by the holders of the certificates every twelve (12) months. The training must be reported to the Department, as follows:

(A) For the EMD certificate; a minimum of four (4) hours of training, specific to this discipline, must be reported annually on a Form F-15M.

(B) For the Telecommunicator certification, a minimum of twelve (12) hours of training, specific to this discipline, must be reported annually on a Form F-15M.

(C) For all other disciplines, a minimum of twenty (20) hours of training, specific to each discipline in which certification is held, must be reported annually on a Form F-15M.

(d) The same training may be used for more than one discipline if the content is specific to each discipline. It is the responsibility of the agency head to determine if the training is appropriate for more than one discipline.

(e) Failure to comply with subsection (c) of this rule shall result in the recall of the multi-discipline certification by the Board.

(f) Upon documentation of compliance with subsection (c) of this rule, a law enforcement officer may reapply for single or multi-discipline certification as outlined by this rule.

(19) Certificates Are Property of Department. Certificates and awards are the property of the Department, and the Department shall have the power to revoke or recall any certificate or award as provided in the Act.

[ED. NOTE: Forms & Tables referenced are available from the agency.]
Stat. Auth.: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654, 181.665
Stats. Implemented: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654, 181.665
Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1980(Temp), f. & ef. 6-26-80; PS 2-1980, f. & ef. 12-8-80; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0055, PS 1-1990, f. & ef. 2-7-90; PS 1-1995, f. & ef. 3-30-95, PS 2-1995, f. & ef. 9-27-95; PS 7-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & ef. 11-5-97; BPSST 1-1998, f. & ef. 5-6-98; BPSST 2-1998(Temp), f. & ef. 5-

6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 1-1999, f. & cert. ef. 3-9-99; BPSST 6-1999, f. & cert. ef. 7-29-99; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 13-2001(Temp), f. & cert. ef. 10-26-01 thru 4-10-02; BPSST 8-2002, f. & cert. ef. 4-3-02; BPSST 21-2002, f. & cert. ef. 11-21-02; DPSST 1-2004, f. 1-16-04, cert. ef. 1-20-04; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 2-2008, f. & cert. ef. 1-15-08; DPSST 9-2008, f. & cert. ef. 7-15-08

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) Maintenance training hours reported to the Department on an F-15M or F-15T will be used solely to verify completion of maintenance training requirements and will not be added to a telecommunicator's or emergency medical dispatcher's DPSST training record.

(5)(a) Instructors may apply hours spent instructing a class one (1) time annually toward maintenance training, but instructed hours reported for a class may not exceed the lesser of:

(A) The actual class hours; or

(B) The actual number of hours the instructor spent instructing the class.

(b) The total number of instructed hours applied towards the annual maintenance training requirement may not exceed:

(A) Six (6) hours for a telecommunicator; or

(B) Two (2) hours for an emergency medical dispatcher;

(6) Failure to comply with sections (1) through (3) of this rule will result in the recall of their certification by the Department.

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

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

(b) Verification that the missed training was completed.

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

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

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

Stat. Auth.: ORS 181.640 & 181.644

Stats. Implemented: ORS 181.640 & 181.644

Hist.: PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 1-1999, f. & cert. ef. 3-9-99; BPSST 5-2001, f. & cert. ef. 8-22-01; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 15-2008, f. & cert. ef. 10-15-08

259-008-0065

Maintenance of Certification For Active Police Officers

(1)(a) The Board is responsible for setting the standards for active police officer training and the maintenance of certification. The Department is required to uphold those standards, while each agency determines what training will be provided to meet the standards.

(b) It is recommended that agencies provide training time and training opportunities to enable the active police officer to meet the required maintenance training hours.

(2) In order to maintain certification:

(a) All active police officers must maintain current First Aid/CPR certification.

(b) All active police officers must complete a total of at least eighty-four (84) hours of agency approved training every three (3) years. The eighty-four (84) hours will include:

(A)(i) Eight (8) CORE hours of training annually, from either the "Firearms" or "Use of Force" subject areas:

(ii) This training must be reported to the Department as twenty-four (24) hours of CORE training, once every three years.

(B)(i) Active police officers who hold a Supervision, Mid-Management or Executive certification, must complete at least twenty-four (24) hours of agency approved Leadership/Professional training, every three years:

(ii) This training must be reported to the Department as twenty-four (24) hours of agency approved Leadership/Professional training, once every three (3) years.

(C)(i) In addition to the CORE (A)(i) (required of all officers) and Leadership/Professional (B)(i) training hours (only required of officers with Supervision Certification and above), the remaining hours must be completed from the category of "General Law Enforcement" training in the recommended, but not limited to, subject areas of Law and Legal, Ethics and Communication, Investigations, Survival Skills, Child Abuse, Sex Abuse, and Elder Abuse:

(ii) These remaining training hours must be reported to the Department as "General Law Enforcement" training, once every three (3) years.

(3) Beginning on the date a police officer returns to work from any leave of absence, the following requirements must be met:

(a) Maintenance Training Requirements as described in section (7) or (8) of this section;

(b) Proof of current First Aid and CPR cards;

(c) Any other applicable requirement for employment, training or certification as specified in OAR 259-008-0010, 259-008-0025 or 259-008-0060.

(4)(a) The employing agency must maintain documentation of required training on each law enforcement officer;

(b) Any training submitted to the Department on an F-6 Course Roster will be entered into each officer's DPSST training record.

(c) Maintenance training submitted on an F-6 will be credited towards the number of hours required for each maintenance training category in section (2) above.

(d) On or after January 2 of each year, the Department will identify all police officers who are deficient in maintenance training according to Department records and provide notification to the officer and his/her employing agency.

(e) Within 60 days of receipt of the notification in (d) above, the agency must notify the Department of the training status of all police officers identified as deficient in maintenance training by submitting a Form F-15M-Police to the Department, identifying the training completed during the previous three (3) year reporting period.

(A) Maintenance training hours reported to the Department on an F-15M-Police will be used solely to verify completion of maintenance training requirements and will not be added to the officer's DPSST training record.

(B) Failure to notify the Department of completion of the required training for officers with identified training deficiencies will result in a warning notification letter being sent to the agency head and the officer.

(C) A six (6) month extension to complete maintenance training requirements or submit an F-15M-Police will be automatically authorized for officers reporting maintenance requirements due on December 31, 2006.

(5) Failure to complete the training or submit the completed Form F-15M-Police, after the warning notification letter and before the six (6) month extension has expired, will result in the recall of the active police officer's certification.

(a) A police officer with a recalled certification cannot work in a certified position.

(b) Recertification following a recall may be obtained at the approval of the Department by submitting the following:

(A) The employing agency head request certification, along with an explanation of why the training was not completed; and

(B) Verification that the missed training was completed.

(c) After 2 1/2 years in a recalled status the police officer will be required to complete an Career Officer Development Course before s/he can be recertified.

(d) After over 5 years in a recalled status the police officer will be required to complete basic training in the appropriate discipline.

(6) Agency heads of the employing agency may document "excused leave" in extreme circumstances for not completing the annual requirements but must provide documentation as to the reason and indicate when the missed training was completed.

(7) Maintenance Training Requirements for Police Officers on Leave of Absence.

(a) A police officer who is on leave of absence for any period between 90 to 180 days will have the same maintenance training deadline as the date established prior to the officer's leave of absence date.

(b) A police officer who is on leave of absence for more than 180 days, but less than one year will receive a one year extension from the maintenance training deadline established prior to the officer's leave.

(c) A police officer who is on leave of absence for more than one year, but less than 2 1/2 years will receive an extension of up to three years from the maintenance training deadline established prior to the officer's leave. The extension will be prorated, based on the duration of the officer's leave. Upon the officer's return to work, the officer must complete the mandatory eight hours of annual firearms/use of force maintenance training within 30 days of the officer's return to work, as follows:

(A) Qualification with the appropriate duty weapon(s); and

(B) Completion of sufficient additional firearms and use of force refresher training to total eight hours.

(d) Failure to meet the requirements of subsection (c) of this section will result in a warning notification or recall of a police officer's certification as described in subsection (4) or (5) of this section.

(8) Maintenance Training Requirements for Previously Certified Police Officers.

(a) Any police officer who has not been employed as a police officer for between one year and five years, or whose certification has lapsed following 2 1/2 years in a leave status, must complete the mandatory eight hours of annual firearms/use of force maintenance training within 30 days of the officer's return to work, as follows:

(A) Qualification with the appropriate duty weapon(s); and

(B) Completion of sufficient additional firearms and use of force refresher training to total eight hours.

Stat. Auth.: ORS 181.652, 181.653 & 181.667

Stats. Implemented: ORS 181.652, 181.653 & 181.667

Hist.: PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 22-2002, f. & cert. ef. 11-18-02; BPSST 9-2003, f. & cert. ef. 4-22-03; DPSST 11-2006(Temp), f. & cert. ef. 8-15-06 thru 2-1-07; DPSST 13-2006, f. & cert. ef. 10-13-06; DPSST 3-2007, f. & cert. ef. 1-12-06

259-008-0066

Maintenance of Certification for Part-time Parole and Probation Officers

(1) Basic Certification — All certified parole and probation officers who have already obtained basic certification and worked as a full-time parole and probation officer for a minimum of one year may continue certification if that officer begins working in a part-time capacity, as defined in OAR 259-008-0005(13) and ORS 181.610, without having their certification lapsed, denied, or revoked.

(2) In order to maintain certification:

(a) The part-time parole and probation officer shall annually complete 20 hours of training. The content of the training is determined by the agency head of the employing agency;

(b) The employing agency shall maintain documentation of required training on each parole and probation officer; and

(c) The employing agency shall notify DPSST of all part-time parole and probation officers employed annually, and provide documentation as to their training status by submitting a DPSST Form F-15P to DPSST by December 31st of each year.

(3) Failure to complete the training and/or submit the completed Form F-15P before the deadline date shall result in the lapse of the part-time parole and probation officer's certification.

(4) The person whose certification has lapsed may apply for recertification in the manner provided in ORS 181.610 to 181.712.

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

Stat. Auth.: ORS 181.640 & 181.653

Stats. Implemented: ORS 181.640 & 181.653

Hist.: BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; DPSST 5-2004, f. & cert. ef. 4-23-04;

259-008-0067

Lapsed Certification

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

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

(A) Is on leave from a law enforcement unit; or

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

(2) The certification of any telecommunicator or emergency medical dispatcher who is not utilized as a telecommunicator or emergency medical dispatcher for any period of time in excess of 12 consecutive months, unless the telecommunicator or emergency medical dispatcher is on leave from a public or private safety agency, is lapsed. Upon reemployment as a telecommunicator or emergency medical dispatcher, the person whose certification has lapsed may apply for certification in the manner provided in ORS 181.610 to 181.712.

Stat. Auth.: ORS 181.652, 181.653 & 181.667

Stats. Implemented: ORS 181.652, 181.653 & 181.667

Hist.: BPSST 9-2003, f. & cert. ef. 4-22-03; DPSST 5-2004, f. & cert. ef. 4-23-04

259-008-0068

Retired Police Officer Certification and Maintenance Standards

(1) Definitions. "Honorably retired" means reaching the state of Oregon's recognized retirement age and retiring in good standing from active service as a police officer with a minimum of five years of full-time law enforcement experience in Oregon.

(a) "Retired Police Officer" means an honorably retired police officer who may carry a DPSST Retirement card.

(b) "Certified Retired Police Officer" means an honorably retired police officer who obtains and maintains her or his certification.

(2) Certified Retired Police Officer Status.

(a) The certification of an honorably retired police officer that meets and maintains the minimum standards established in section (5) of this rule will not lapse. To have police officer authority, a certified honorably retired police officer must be affiliated with and under the direction of a law enforcement agency.

(b) A certified honorably retired police officer that resumes full-time, permanent employment with a law enforcement agency, in a certified discipline, must meet active police certification requirements as required by OAR 259-008-0060. The law enforcement agency must submit the form F-4 and F-7 to the Department when a certified honorably retired police officer is hired on a permanent, full-time basis.

(3) The process for obtaining a police officer Retirement Card shall be as stated in OAR 259-008-0100.

(4) Process for obtaining Retired Police Officer certification.

(a) To avoid a lapse of certification, upon retirement or within 90 days after retirement, an honorably retired police officer must submit a form F-7R with the required fees and two fingerprint cards.

(b) After a lapse of certification (90 days) but before 2 1/2 years, the honorably retired police officer must submit the application for Retired Police Officer certification with the required fees and two fingerprint cards.

(c) After a lapse of 2 1/2 years but less than 5 years, the honorably retired police officer must submit the application for Retired Police Officer certification, complete the DPSST Police Career Office Development (COD) training course; see OAR 259-008-0025(1)(f), submit the required fees and two fingerprint cards.

(d) After a lapse of more than 5 years, the honorably retired police officer is no longer eligible to obtain a Retired Police Officer certification.

(e) For the honorably retired police officer whose certification has lapsed between October 29, 1999, and January 16, 2004, and who is not covered by (a) or (b) of this section, Certified Retired Police Officer status may be achieved by submitting a form F-7R, the required fees and two fingerprint cards, within 180 days from January 16, 2004, and provides evidence that:

(A) The police officer honorably retired between October 29, 1999, and January 16, 2004, see Definitions (1) for criteria; and

(B) The honorably retired police officer has had no disqualifying behavior since retirement as established by a CCH and/or other satisfactory evidence to refute an allegation(s) of disqualifying behavior if such is received by the Department from any source.

(5) Process for maintaining Certified Retired Police Officer certification.

(a) A new application must be submitted to DPSST every three years with:

(A) Two fingerprint cards; and

(B) The required fees.

(b) Evidence must be provided on a form supplied by the Department that the maintenance training, as required by OAR 259-008-0065, has been met during the previous three-year period.

(A) Failure to notify the Department of the required training will result in a warning notification letter being sent to the certified honorably retired officer.

(B) A six (6) month extension will be automatically authorized.

(C) The honorably retired police officer must request recertification, along with an explanation of why the training was not completed; and

(D) Provide verification that the missed training was completed by submitting a form F-15.

(E) Failure to complete the training and/or submit the completed Form F-15, after the warning notification letter and before the six (6) month extension has expired will result in non-renewal of the Certified Retired Police Officer certification.

(c) It is the certified honorably retired police officer's responsibility to fund and coordinate training needs to meet the mandatory training requirements.

(d) The certified honorably retired police officer who maintains the retired certification will be excluded from the "lapsed" status and will not be required to retake any basic police training in order to recertify as an active police officer.

(e) The renewal application, fingerprints, and fees will not be required if the honorably retired officer is employed in a full-time capacity.

(6) Denial or revocation of a Retired Police Officer Certification shall be handled in the same manner as active police officer certification pursuant to OAR 259-008-0070.

(7) Fees. Payments to the Department are non-refundable, and must be paid by personal check, money order or cashier's check. No credit cards or cash will be accepted. The Department, in carrying out the provisions of OAR 259-008-0068, shall charge the following fees.

(a) A fee of \$40 shall be submitted with each application for a Certified Retired Police Officer certification.

(b) Appropriate fees shall be submitted with each application for a fingerprint criminal history check. These fees are to recover the costs of the fingerprint check through the Oregon State Police and Federal Bureau of Investigation. An additional fee will be charged for the third submittal of fingerprint cards when rejected for filing by the FBI. Current fee schedules for processing fingerprints may be obtained from the Department.

Stat. Auth.: ORS 181.667

Stats. Implemented: ORS 181.667

Hist.: DPSST 2-2004, f. & cert. ef. 1-16-04; DPSST 2-2005(Temp), f. 3-29-05, cert. ef. 4-1-05 thru 9-28-05; DPSST 8-2005, f. & cert. ef. 9-28-05

259-008-0070

Denial/Revocation

(1) It is the responsibility of the Board to set the standards, and of the Department to uphold them, to insure the highest levels of professionalism and discipline. These standards shall be upheld at all times unless the Board determines that neither the safety of the public or respect of the profession is compromised.

(2) Mandatory Grounds for Denying or Revoking Certification of a Public Safety Professional or Instructor:

(a) The Department must deny or revoke the certification of any public safety professional or instructor after written notice and hearing, based upon a finding that:

(A) The public safety professional has been discharged for cause from employment as a public safety professional. For purposes of this rule, “discharged for cause,” means an employer-initiated termination of employment for any of the following reasons:

(i) Gross Negligence: means the public safety professional’s act or failure to act creates a danger or risk to persons, property, or to the efficient operation of the department, recognizable as a gross deviation from the standard of care that a reasonable public safety professional would observe in a similar circumstance;

(ii) Insubordination: means a refusal by a public safety professional to comply with a rule or order where the rule or order was reasonably related to the orderly, efficient, or safe operation of the public or private safety agency and where the public safety professional’s refusal to comply with the rule or order constitutes a substantial breach of that person’s duties; or

(iii) Incompetence or Gross Misconduct: in determining what constitutes “incompetence or gross misconduct,” sources the Department may take into account include but are not limited to practices generally followed in the profession, current teaching at public safety training facilities, and technical reports and literature relevant to the fields of law enforcement, telecommunications, or emergency medical dispatch.

(B) The public safety professional or instructor has been convicted 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 year may be imposed;

(C) The public safety professional or instructor has been convicted of violating any law of this state or any other jurisdiction involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic or dangerous drug except the Department may deny certification for a conviction of possession of less than one ounce of marijuana, which occurred prior to certification; or

(D) The public safety professional or instructor has been convicted in this state of any of the following offenses, or of their statutory counterpart(s) in any other jurisdiction, designated under the law where the conviction occurred as being punishable as a crime:

- 162.075 (False swearing),
- 162.085 (Unsworn falsification),
- 162.145 (Escape in the third degree),
- 162.175 (Unauthorized departure),
- 162.195 (Failure to appear in the second degree),
- 162.235 (Obstructing governmental or judicial administration),
- 162.247 (Interfering with a peace officer),
- 162.257 (Interfering with a firefighter or emergency medical technician),
- 162.295 (Tampering with physical evidence),
- 162.305 (Tampering with public records),
- 162.315 (Resisting arrest),
- 162.335 (Compounding),
- 162.365 (Criminal impersonation),
- 162.369 (Possession of false law enforcement identification),
- 162.375 (Initiating a false report),
- 162.385 (Giving false information to a peace officer for a citation or arrest warrant),
- 162.415 (Official misconduct in the first degree),
- 163.200 (Criminal mistreatment in the second degree),
- 163.687 (Encouraging child sexual abuse in the third degree),
- 163.732 (Stalking),
- 164.045 (Theft in the second degree),
- 164.085 (Theft by deception),
- 164.095 (Theft by receiving),
- 164.125 (Theft of services),
- 164.235 (Possession of a burglary tool or theft device),
- 164.877 (Unlawful tree spiking; unlawful possession of substance that can damage certain wood processing equipment)
- 165.007 (Forgery in the second degree),
- 165.017 (Criminal possession of a forged instrument in the second degree),
- 165.037 (Criminal simulation),
- 165.042 (Fraudulently obtaining a signature),
- 165.047 (Unlawfully using slugs),
- 165.055 (Fraudulent use of a credit card),
- 165.065 (Negotiating a bad check),
- 165.080 (Falsifying business records),
- 165.095 (Misapplication of entrusted property),
- 165.100 (Issuing a false financial statement),
- 165.102 (Obtain execution of documents by deception),
- 165.825 (Sale of drugged horse),
- 166.065(1)(b) (Harassment),

- 166.155 (Intimidation in the second degree),
- 166.270 (Possession of weapons by certain felons),
- 166.350 (Unlawful possession of armor-piercing ammunition),
- 166.416 (Providing false information in connection with a transfer of a firearm),
- 166.418 (Improperly transferring a firearm),
- 166.470 (Limitations and conditions for sales of firearms),
- 167.007 (Prostitution),
- 167.065 (Furnishing obscene materials to minors),
- 167.070 (Sending obscene materials to minors),
- 167.075 (Exhibiting an obscene performance to a minor),
- 167.080 (Displaying obscene materials to minors),
- 167.132 (Possession of gambling records in the second degree),
- 167.147 (Possession of a gambling device),
- 167.222 (Frequenting a place where controlled substances are used),
- 167.262 (Adult using minor in commission of controlled substance offense),
- 167.320 (Animal abuse in the first degree),
- 167.330 (Animal neglect in the first degree),
- 167.332 (Prohibition against possession of domestic animal),
- 167.333 (Sexual assault of animal),
- 167.337 (Interfering with law enforcement animal),
- 167.355 (Involvement in animal fighting),
- 167.370 (Participation in dogfighting),
- 167.431 (Participation in cockfighting),
- 167.820 (Concealing the birth of an infant),
- 475.525 (Sale of drug paraphernalia),
- 475.950 (Failure to report precursor substances transaction),
- 475.955 (Failure to report missing precursor substances),
- 475.960 (Illegally selling drug equipment),
- 475.965 (Providing false information on precursor substances report or record),
- 475.969 (Unlawful possession of phosphorus),
- 475.971 (Unlawful possession of anhydrous ammonia),
- 475.973 (Unlawful possession of ephedrine, pseudoephedrine or phenylpropanolamine; unlawful distribution),
- 475.975 (Unlawful possession of iodine in its elemental form),
- 475.976 (Unlawful possession of iodine matrix),
- 475.981 (Falsifying drug test results),
- 475.982 (Providing drug test falsification equipment),
- 475.986 (Application of controlled substance to the body of another person),
- 475.991 (Unlawful delivery of imitation controlled substance),
- 475.992 (Manufacture or deliver a controlled substance),
- 475.993 (Unlawful acts, registrant delivering or dispensing controlled substance),
- 475.994 (Prohibited acts involving records and fraud),
- 475.995 (Distribution of controlled substance to minors),
- 475.999 (Manufacture or delivery of controlled substance within 1,000 feet of school),
- 807.520 (False swearing to receive license),
- 807.620 (Giving false information to police officer),

Any offense involving any acts of domestic violence as defined in ORS 135.230.

(b) The Department must take action on a mandatory disqualifying conviction, regardless of when it occurred, unless the Department, or the Board, has previously reviewed the conviction and approved the public safety professional or instructor for certification under a prior set of standards.

(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:

(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 has been convicted of an offense, punishable as a crime, other than a mandatory disqualifying crime listed in subsection (2), in this state or any other jurisdiction. In determining whether to take action on a conviction, the Department must use the following guidelines:

(A) In making a decision on a discretionary denial or revocation, the Department will consider the implementation dates relating to new mandatory conviction notification requirements adopted in 2003 and statutory changes dealing with lifetime disqualifier convictions for public safety officers adopted in 2001.

(B) The Department will not take action on a discretionary conviction that occurred prior to January 1, 2001. However, the Department may consider such conviction as evidence that a public safety professional or instructor does not meet the established moral fitness guidelines.

(C) The Department may take action on any discretionary disqualifying conviction that occurred after January 1, 2001.

(D) The Board may reconsider any mandatory conviction which subsequently becomes a discretionary conviction, upon the request of the public safety professional or instructor.

(E) The length of ineligibility for training or certification based on a conviction begins on the date of conviction.

Chapter 259 Department of Public Safety Standards and Training

(F) Notwithstanding subsection (2)(b) of this section, all denial and revocation standards must apply to public safety professionals and instructors.

(G) A public safety professional or agency will not be held accountable for failing to report a discretionary conviction that occurred prior to January 1, 2003.

(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.

(d) A public safety professional failed to attend at least one session with a mental health professional within six months after the public safety professional was involved in using deadly physical force, as required by ORS 181.789.

(4) Scope of Revocation. Whenever the Department denies or revokes the certification of any public safety professional, the denial or revocation will encompass all certificates the Department has issued to that person.

(5) Denial and Revocation Procedure.

(a) Employer Request: When a public safety professional's employer requests that a public safety professional's certification be denied or revoked, the employer must submit the reason for the requested denial or revocation and all factual information supporting the request, in writing, to the Department.

(b) Department Initiated Request: Upon receipt of factual information from any source, and pursuant to ORS 181.662, the Department may request that the public safety professional's certification be denied or revoked.

(c) Department Staff Review: When the Department receives information, from any source, that a public safety professional may not meet the established standards for Oregon public safety professionals, the Department will review the request and the supporting factual information to determine if the request for denial or revocation meets statutory and administrative rule requirements.

(A) If the reason for the request does not meet the statutory and administrative rule requirements for denial or revocation the Department will notify the requestor.

(B) If the reason for the request does meet statutory and administrative rule requirements but is not supported by adequate factual information, the Department will request further information from the employer or conduct its own investigation of the matter.

(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, including the following:

(A) Was a conviction a felony, misdemeanor, or violation?

(B) How long ago did a conviction occur?

(C) Was the public safety professional a minor at the time and tried as an adult?

(D) When did the conduct occur in relation to the public safety professional's employment in law enforcement (i.e., before, during, after)?

(E) Did the public safety professional serve time in prison/jail? If so, how long?

(F) If restitution was involved, has the public safety professional met all obligations?

(G) Was the public safety professional on parole or probation? If so, when did the parole or probation end? Is the public safety professional still on parole or probation?

(H) Do the actions violate the established moral fitness standards for Oregon public safety officers identified in OAR 259-008-0010(5), 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 public safety professional's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation?

(I) How many other convictions does this public safety professional have? Over what period of time?

(J) Has the public safety professional been convicted of the same conduct more than once? Is this a repeated violation or a single occurrence?

(K) Does the conduct involve domestic violence?

(L) Did the public safety professional self report the conduct?

(e) Initiation of Proceedings: Upon determination that the reason for denial or revocation is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared.

(f) Contested Case Notice: The "Contested Case Notice" will be prepared in accordance with the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department will have a copy of the notice served on the public safety professional.

(g) Response Time:

(A) A party who has been served with a "Contested Case Notice of Intent to Deny Certification" has 60 days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(B) A party who has been served with the "Contested Case Notice of Intent to Revoke Certification" has 20 days from the date of mailing or personal service of the notice in which to file with the Department a written request for hearing.

(h) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying or revoking certification pursuant to OAR 137-003-0075(5).

(i) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(j) Proposed Order: The assigned Administrative Law Judge will prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

(k) Exceptions and Arguments: A party must file specific written exceptions and arguments with the Department no later than 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order.

(A) The Department may extend the time within which the exceptions and arguments must be filed upon a showing of good cause.

(B) When the exceptions and arguments are filed, the party making the exceptions and arguments must serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.

(l) Final Order: A final order will be issued pursuant to OAR 137-003-0070 if a public safety professional fails to file exceptions and arguments in a timely manner.

(m) Stipulated Order Revoking Certification: Any public safety professional who wishes to voluntarily terminate an administrative proceeding to revoke a certification, or voluntarily relinquish a certification, may enter a stipulated order with the Department, at any time, revoking his or her certification under the terms and conditions outlined in the stipulated order.

(6) Appeal and Reapplication.

(a) A public safety professional or instructor, aggrieved by the findings and order of the Department may, as provided in ORS 183.480, file an appeal with the Court of Appeals from the final order of the department.

(b) Any public safety professional or instructor who has had a certification revoked pursuant to ORS 181.661 and 181.662 or subsection (a) of this section, may reapply for certification but not sooner than four years after the date on which the Order of the Department revoking certification became final.

Stat. Auth.: ORS 181.640, 181.661, 181.662, 181.664 & 183.341

Stats. Implemented: ORS 181.640, 181.661, 181.662 & 181.664

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1980(Temp), f. & ef. 6-26-80; PS 2-1980, f. & ef. 12-8-80; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0055, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 6-2000, f. & cert. ef. 9-29-00; BPSST 14-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 5-2002(Temp), f. 4-3-02, cert. ef. 4-6-02 thru 8-1-02; BPSST 16-2002, f. & cert. ef. 7-5-02; BPSST 22-2002, f. & cert. ef. 11-18-02;

Chapter 259 Department of Public Safety Standards and Training

DPSST 7-2003, f. & cert. ef. 4-11-03; DPSST 7-2004, f. & cert. ef. 4-23-04; DPSST 10-2006, f. & cert. ef. 7-6-06; DPSST 16-2008, f. & cert. ef. 10-15-08

259-008-0072

Department Representative at Contested Case Hearing

(1) Subject to approval of the Attorney General, an officer or employee of the Department is authorized to appear on behalf of the Department in all contested case hearings conducted by the Department or Board.

(2) The Department representative may not make legal argument on behalf of the Board or Department.

(a) "Legal argument" includes arguments on:

(A) The jurisdiction of the Department to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to the Department; and

(C) The application of court precedent to the facts of the particular contested case hearing.

(b) "Legal argument" does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(A) The application to the facts to the statutes or rules directly applicable to the issues in the contested case;

(B) Comparison of prior actions of the Department in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case; and

(D) The admissibility of evidence or the correctness of procedures being followed.

(3) When the Department officer or employee represents the Board or Department, the presiding officer shall advise each representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection. Where such objections involve legal argument, the presiding officer shall provide reasonable opportunity for the Department's officer or employee to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Auth.: ORS 181.640, 181.661, 181.662, 181.664 & 183.341

Stats. Implemented: ORS 181.640, 181.661, 181.662 & 181.664

Hist.: BPSST 6-2000, f. & cert. ef. 9-29-00

259-008-0075

Eligibility for Candidacy for Office of Sheriff

(1) A person is not eligible to be a candidate for election or appointment to the office of sheriff unless:

(a) The person is 21 years of age or older;

(b) The person has at least four years experience as a full-time law enforcement officer or at least two years experience as a full-time law enforcement officer with at least two years post-high school education; and

(c) The person has not been convicted of a felony or any other crime that would prevent the person from being certified as a police officer under ORS 181.610 to 181.670.

(2) As used in section (1) of this rule, "two years post-high school education" means four semesters or six quarters of classroom education in a formal course of study undertaken after graduation from high school in any accredited college or university. The term does not include apprenticeship or on-the-job training.

(3) If the person is not certified as a police officer by the Department at the time of accepting appointment or filing as a candidate, a person elected or appointed to the office of sheriff must:

(a) Obtain certification not later than one year after taking office;

(b) File a copy of the certification with the County Clerk or the county official in charge of elections within one year after taking office.

(4) Prior to attending any Department-approved training course, a person elected or appointed to the office of Sheriff must comply with the minimum standards for employment and training specified in OAR 259-008-0010 and 259-008-0025. This includes, but is not limited to the following categories:

(a) Citizenship;

(b) Age;

(c) Fingerprints;

(d) Criminal Records;

(e) Notification of Conviction;

(f) Moral Fitness (Moral Character);

(g) Education;

(h) Physical Examination:

(A) Any written request for a waiver of any physical requirement must be submitted to the Department as described in OAR 259-008-0010(8)(k);

(B) Any request for a waiver of any physical requirement must be approved by a Policy Committee and Board; and

(C) Any expense associated with providing documentation or testimony shall be borne by the person requesting the waiver.

(i) Submitting an Application for Training (DPSST Form F-5) to the Department providing evidence that a minimum of a 12th grade reading and writing level has been attained, as required in OAR 259-008-0010(7)(c);

(j) Submitting a current Medical Examination Report (DPSST Form F-2) completed by a licensed physician; and

(k) Completion of a Basic Course and Field Training Manual, unless a written request for a waiver of this requirement is received and approved by the Department.

(5) Prior to obtaining certification as a police officer, a person elected or appointed to the office of Sheriff must comply with the minimum standards for certification specified in OAR 259-008-0060 which include, but are not limited to:

(a) Full-time employment;

(b) Submission of a Criminal Justice Code of Ethics (DPSST Form F 11);

(c) Submission of an Application for Certification (DPSST Form F-7) with all applicable sections of the form completed; and

(d) Valid First Aid and cardiopulmonary resuscitation (CPR) cards.

(6) Any newly appointed public safety professional must submit a Personnel Action Report (DPSST Form F-4) to the Department within ten (10) business days after employment, as provided in OAR 259-008-0020.

(7) For complete information relating to employment, training and certification requirements, refer to the full text of the statutes and rules referenced in subsections (1) through (6) above.

(8) The procedure for determining whether an individual is eligible to be a candidate for election to the office of sheriff is:

(a) A potential candidate for sheriff must submit an Application for Determination of Eligibility to Be Sheriff (BPSST Form F-25) to the Department not sooner than the first of July before the primary election and not later than the 70th day before the primary election (ORS 249.037);

(b) The Department will file a copy of its determination on an individual's eligibility to be a candidate for election to the office of sheriff with the county clerk or county official in charge of elections not later than the 61st day before the date of the election;

(c) The Department will notify the applicant in writing of the determination and decision concerning the eligibility of the applicant by certified mail, mailed to the applicant and postmarked at not later than the 61st day before the date of the election.

(9) Any candidate seeking election or appointment to the office of sheriff, must submit a criminal history affidavit (BPSST Form F-26), provided by the Department.

(10) If any falsification is made on the application or documents submitted in support of the application, the Department may deny approval, revoke and/or rescind any approval previously given.

(11) The Department will provide a copy of this rule to all persons requesting an evaluation of their eligibility to be a candidate for sheriff.

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

Stat. Auth.: ORS 206.015

Stats. Implemented: ORS 206.015

Hist.: PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1982, f. & ef. 7-2-82; PS 2-1982, f. & ef. 9-7-82; PS 1-1983, f. & ef. 12-15-83; PS 2-1987, f. & ef. 10-26-87; Renumbered from 259-010-0057, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; DPSST 9-2007, f. & cert. ef. 8-15-07

259-008-0076

Eligibility Requirements for Police Chief

(1) In addition to the minimum standards for employment and training as a law enforcement officer as described in OAR 259-008-

Chapter 259 Department of Public Safety Standards and Training

0010 and 259-008-0025, a person accepting employment as a Police Chief must:

(a) Be currently certified as a police officer by the Department; or

(b) If the person is not currently certified as a police officer by the Department, the person accepting employment as Police Chief must obtain certification no later than 18 months after accepting such employment.

(2) Any person accepting employment as Police Chief must obtain Management certification by the Department within two (2) years of accepting employment as Police Chief, unless an extension is requested in writing and granted by the Department.

(3) The Department may grant an extension of time to obtain a Management certificate upon presentation of evidence by a law enforcement unit that a Police Chief was unable to obtain the certification within the required time limit due to a leave of absence for illness, injury, military service, special duty assignment, or any other reasonable cause as determined by the Department. No extension will be granted beyond one year.

(4) The employing agency must maintain documentation of a Police Chief's qualifications.

(5) The employing agency must notify the Department within 10 days of the date that a Police Chief is appointed, resigns, retires, terminates employment, is discharged, deceased, takes a leave of absence, or transfers within a law enforcement unit, or private or public safety agency as required by OAR 259-008-0020.

(6) Failure to obtain a Management Certificate as required in section (2) or (3) above, will result in the immediate recall of the Police Chief's certification:

(a) A Police Chief with a recalled certification is prohibited from performing the duties of, or working in any capacity as, a Police Chief or Acting Police Chief;

(b) Prior to recertification of a Police Chief's recalled certificate, the employing agency head must submit the following:

(A) A written request for recertification, along with an explanation of the individual's current job duties and why the Department should recertify the individual if they are not currently in a certifiable police officer position; or

(B) Verification that a Management Certificate was obtained, if the individual is requesting reinstatement as a Police Chief.

(c) A police chief whose certification has been recalled pursuant to this rule must submit a completed F-4 (Personnel Action Form) identifying that the individual is no longer serving as, or performing the duties of, police chief prior to reactivating their police certification;

(d) A Police Chief who fails to recertify within 2-1/2 years is subject to the provisions of OAR 259-008-0025(2);

(e) A Police Chief who fails to recertify within five (5) years is subject to the provisions of OAR 259-008-0025(1)(c).

Stat. Auth.: ORS 181.640, 181.665

Stats. Implemented: ORS 181.640, 181.665

Hist.: DPSST 13-2005, f. & cert. ef. 12-7-05; DPSST 9-2007, f. & cert. ef. 8-15-07

259-008-0080

Certification of Instructors

(1) The Department shall certify instructors deemed qualified to teach in any of the certified training courses.

(2) Instructors will be certified on the basis of minimum qualifications as established by the Department in the areas of education, training, and experience. It shall be the continuing responsibility of the Department to see that instructors are assigned only topics which they are qualified to teach and the instruction is evaluated on a regular basis to insure that excellence is maintained.

(3) Instructors for corrections, parole and probation, police, telecommunications, or emergency medical dispatch, shall have a minimum of three (3) years experience in their respective professions or possess other qualifying professional experience.

(4) Review and approval of instructors shall be the responsibility of the Department.

(5) Applications for instructor certification, shall be submitted on an Instructor Certification Application (BPSST Form F-9) and shall be accompanied by a detailed resume of individual qualifications.

(6) If certification is denied, the requesting agency shall be notified in writing and advised of the reasons for denial.

(7) Instructor certification is not required for teaching assignments in non-Department certified courses.

(8) Review of instructor certification may be initiated upon the request of a department head, staff, or other reliable source.

(9) Instructor certification shall be valid for the term of the associated course.

[ED. NOTE: Form referenced is available from the agency.]

Stat. Auth.: ORS 181.640 & 181.650

Stats. Implemented: ORS 181.640 & 181.650

Hist.: PS 12, f. & cert. ef. 12-19-77; PS 1-1983, f. & cert. ef. 12-15-83; Renumbered from 259-010-0060, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98, BPSST 22-2002, f. & cert. ef. 11-18-02

259-008-0085

Certification of Courses and Classes

(1) The Department will certify state mandated courses and classes deemed adequate to effectively teach one or more approved public safety subject(s) to public safety professionals.

(2) Certification will be based on the evaluation of course curriculum or subjects for instruction, instructor qualifications, facilities for instruction, and method of instruction. The Department may cause inspections to be made pursuant to ORS 181.640(2).

(3) Facilities and equipment used for certified training must be accessible to all interested and qualified individuals.

(4) The Department recognizes courses at two levels: Content and Topical.

(a) Content level courses require a student demonstration of acquired knowledge, skill, or ability. Agencies, organizations, or individuals requesting course certification at the content level must submit an Application for Certification of Course (DPSST Form F-20), accompanied by clearly-defined performance objectives, test questions or evaluation criteria, and evidence of instructor certification as provided in OAR 259-008-0080. Applications received later than thirty (30) calendar days prior to the start of the course, will not be certified at the content level.

(b) Topical courses are non-mandated courses that are informational in nature. The Department does not certify topical courses.

(5) The Department must certify courses of instruction prior to course completion, or may approve exceptions to this requirement under documented unique circumstances. Records of attendance for training must be maintained by the entity conducting the training.

(6) The Department will notify the requester, in writing, of the denial or approval of course certification.

(7) Course rosters must be completed, indicating the actual number of hours attended by each student. Course rosters must also indicate whether each student passed or failed. Rosters must be returned to the Department within thirty (30) calendar days of course completion; otherwise, the Department may decertify the course.

(8) It is the responsibility of the requesting agency, organization, or individual, to:

(a) Oversee the preparation of curriculum and to insure its compliance with the requirements of the Department;

(b) Obtain a facility and instructor(s) to be used for the course, and insure their compliance with the requirements of the Department;

(c) Develop rules and regulations governing the operation of the facility and the conduct of the trainees;

(d) Administer the course;

(e) Maintain an accurate record of attendance; and

(f) Maintain all forms required by the Department, forwarding them within the stipulated time period.

(9) Once a course is certified, it remains certified for unlimited delivery during that calendar year, unless there is a significant change in course content, number of hours or instructor(s); or unless it is decertified by the Department as provided in section (7) and (11) of this rule. The Department must be notified of significant changes.

(10) All course certification will expire on December 31 of each year. Agencies, organizations or individuals must request recertification to continue a course into a new calendar year.

(11) The Department may decertify a course whenever that course is deemed inadequate. The course may be recertified by the Department when satisfactory proof has been presented to the Department that the deficiencies have been corrected.

(12) Any law enforcement unit or public or private public safety agency, or any college, university, or academy may align their training or education programs with the standards set by the Department

(OAR 259-008-0025) and apply for course certification in the manner described in section (4) of this rule.

(13) Unless written approval is granted otherwise, any course that has been declared mandatory by the Department shall require a minimum number of training hours in each specific subject that constitutes the course, as determined and modeled by the course being offered at the Oregon Public Safety Academy.

(14) Effective January 1, 2007, the department may not accredit any police training program provided by a public safety agency in Oregon or any educational program as equivalent to the minimum training provided by the Department and required for basic certification as a police officer.

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

Stat. Auth.: ORS 181.640 & 181.650

Stats. Implemented: ORS 181.640 & 181.650

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0065, PS 1-1990, f. & cert. ef. 2-7-91; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 15-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 9-2002, f. & cert. ef. 4-3-02; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 3-2007, f. & cert. ef. 1-12-07

259-008-0090

Training Records

(1) Upon receipt by the Department of a Personnel Action Report (BPSST Form F-4), properly identifying a public safety professional, the Department will initiate a file for that individual and record completion of approved training, as well as other personnel information, if properly documented.

(2) Upon receipt of the appropriate form, the Department will enter training hours for training a public safety professional attended.

(a) Beginning April 1, 2007, F-6 (Attendance Rosters) will only be accepted to report training that occurred in the current calendar year and the two previous years.

(b) Any training occurring three or more years prior to the current year, or any training received while a public safety professional was employed in a jurisdiction outside of Oregon, must be reported on an F-15 (Continuing Log of Training). Approved training will appear on a public safety professional's training record as a lump sum number of hours of "approved training" for each year reported.

(3) Beginning January 1, 2007, all training submitted to the Department must be submitted on the current version F-6 (Attendance Roster) or F-15 (Continuing Log of Training) available upon request, or from the Department's internet website.

(4) Any Form F-6 (Attendance Roster) or F-15 (Continuing Log of Training) received by the Department that is insufficient, or not in compliance with this rule will be returned to the originating agency. The Department will identify any deficiencies needing completion or correction.

(5) Upon display of proper identification, a department head, or authorized representative, may review their employee's file as maintained by the Department. Proper identification will also be required of individuals interested in reviewing their own file.

(6) Review or release of non-public information under Oregon law to other than the individual whose file is the subject of the information request or to the employing law enforcement agency, or public or private safety agency will only be permitted by the Department upon advisement by the Attorney General, by court order, or with a signed consent from the individual whose file is the subject of the information request.

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

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1983, f. & ef. 12-15-83; Renumbered from 259-010-0070, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; DPSST 10-2007, f. & cert. ef. 10-15-07

259-008-0100

Miscellaneous Activities of the Board or Department

(1) The Board or Department may make or encourage studies of any aspect of corrections, parole and probation, telecommunications, emergency medical dispatch, fire, or police administration, including the stimulation of research by public and private agencies which shall be designed to improve the Criminal Justice System.

(2) The Board or Department may cooperate and consult with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, community colleges, and other institutions concerning the development of criminal justice training schools and programs or courses of instruction.

(3) The Board or Department may cooperate and consult with official bodies or individuals charged by law with the responsibility for corrections, parole and probation, telecommunications, emergency medical dispatch, fire or police selection and training standards in other states.

(4) The Board or Department may periodically publish or recommend that other governmental agencies publish curricula, manuals, lesson plans, brochures, newsletters, and other materials to aid departments in achieving the objectives of the Act.

(5) The Department may direct, operate, or sponsor training schools and set reasonable rules and regulations for the operation and use by trainees.

(6) The Department may, on request, issue Retirement Cards to those DPSST certified law enforcement officers who have honorably served the citizens of Oregon and who have retired from their agency under honorable conditions.

(a) For the purposes of this rule, "retired" means reaching the recognized retirement age with a minimum of five (5) years of full-time law enforcement experience in Oregon.

(b) An officer who has sustained a permanent disability that prevents a return to law enforcement may qualify for a Retirement Card if the officer has served a minimum of five (5) years as a full-time law enforcement officer in Oregon.

(c) The request for a Retirement Card shall be made by the agency in which the officer was last employed. The request shall be in writing.

(7) In accordance with the Oregon Revised Statutes the Board, in consultation with the Department, designates the following classifications of public safety personnel killed in the line of duty who may be honored at the Law Enforcement Memorial Wall.

(a) Eligibility:

(A) For the purpose of placing names, law enforcement officer includes, as defined in ORS 181.610, police officer, reserve officer, corrections officer, and parole and probation officer. Also included are federal law enforcement officers assigned to or performing law enforcement duties in Oregon.

(b) Criteria for placement on the Law Enforcement Memorial Wall:

(A) Officers who suffered an "in-the-line-of-duty" death.

(i) "In the line of duty death" means a fatal injury which is the direct or proximate result of any enforcement action or emergency response resulting in death or death directly resulting from law enforcement training for enforcement action or emergency response that the law enforcement officer is authorized or obligated to perform by law, rule, regulation, or condition of employment or service while on or off duty.

(ii) A fatal injury may include a medical condition which arises out of law enforcement actions or training for enforcement action or emergency response causing an officer's death immediately or within 24 hours or causing her/his death during a continuous period of hospitalization resulting from a law enforcement action.

(iii) Not included under this definition are deaths attributed to natural causes (except when a medical condition arises out of law enforcement action or law enforcement training for enforcement action or emergency response causing an officer's death immediately or within 24 hours or causing his/her death during a continuous period of hospitalization immediately following the taking of law enforcement action). Deaths attributed to voluntary alcohol or controlled substance abuse, deaths caused by the intentional misconduct of the officer, deaths caused by the officer's intention to bring about his or her own death, and deaths attributed to an officer performing his/her duty in a grossly negligent manner at time of death are not included under this definition.

(iv) When there is doubt arising from circumstances of the officer's death or with respect to individual status as a law enforcement officer, the matter shall be resolved by a majority vote of the Board on Public Safety Standards and Training Executive Committee.

(c) Exclusions from the Law Enforcement Memorial Wall:

Chapter 259 Department of Public Safety Standards and Training

(A) Officers whose deaths are attributed to natural causes are not eligible for inclusion in the wall; or

(B) A death that is attributed to the officer's voluntary alcohol or substance abuse use; or

(C) Death caused by intentional misconduct of the officer; or

(D) Death caused by the officer's intention to bring about his or her own death; and

(E) Death attributed to an officer performing his or her duty in a grossly negligent manner at the time of death.

(d) When there is doubt arising from the circumstances of the officer's death or with respect to the individual status as a law enforcement officer, the matter shall be resolved by a majority vote of the Executive Committee.

(e) The costs of maintenance and relocation of the Law Enforcement Memorial Wall and the costs of an annual memorial service honoring persons killed in the line of duty shall be paid out of the Police Memorial Trust Fund.

(8) In accordance with the Oregon Revised Statutes the Commission, in consultation with the Department, designates the following classifications of public safety personnel who may receive the Law Enforcement Medal of Honor.

(a) Eligibility:

(A) For the purpose of nominating names, law enforcement officer includes, but is not limited to, a police officer, reserve officer, corrections officer, or parole and probation officer. Also included are any state, county, municipal, federal or tribal individual who is:

(i) Commissioned; and

(ii) Responsible for enforcing criminal laws in the state of Oregon.

(b) Criteria for nominations for the state Law Enforcement Medal of Honor:

(A) Officers who have distinguished themselves by exceptionally honorable and meritorious conduct while in the performance of duty.

(i) "Exceptionally honorable and meritorious conduct" means an officer has distinguished themselves conspicuously by gallantry and fortitude at the risk of their life "above and beyond" the call of duty while performing or fulfilling their responsibilities as a law enforcement officer. It involves risk of life and is an act of bravery, self-sacrifice so conspicuous as to clearly distinguish the individual above their comrades.

(ii) "While in the performance of duty" requires acting in an official capacity and performing a law enforcement function.

(B) The exceptionally honorable and meritorious conduct must have occurred on or after January 1, 2006.

(c) Process for Nominations:

(A) All nominations must be submitted in writing to the Secretary of the Law Enforcement Medal of Honor Commission;

(B) All nominations must be presented on an official nomination form;

(C) All nominations must be postmarked no later than one year after the date an officer has performed exceptionally honorable and meritorious conduct;

(D) All nominations must be endorsed by the chief law enforcement officer of the department or agency of the nominee;

(E) All nominations must receive a unanimous vote by the Commission.

(F) Notwithstanding subsection (E) of this rule, a Commission member is prohibited from voting on any nomination submitted from their employing agency. The Commission may achieve a unanimous vote by obtaining a majority vote in instances when a Commission vacancy occurs or a Commission member has been excused from voting.

(G) Any and all documentation, which includes, but is not limited to, police reports, media reports, pictures, testimonials or affidavits, must accompany the nomination. If necessary, the Commission may request additional information. The request will be in writing and addressed to the individual identified as the contributor on an official nomination form.

(d) Law Enforcement Medal of Honor Award

(A) All awards will be presented by the Governor, or his/her designee, at an appropriate time determined by the Commission.

(B) A medal of honor may only be awarded for an event occurring on or after January 1, 2006. This includes medals awarded posthumously.

(C) An individual receiving the Law Enforcement Medal of Honor Award will retain the option for a public or private ceremony.

(C) The costs of awards and medals and the costs associated with a ceremony honoring persons receiving an award shall be paid out of the Law Enforcement Medal of Honor Account established in ORS 176.264.

(f) Commission Protocol:

(A) The Commission will meet no less than once every six months to consider candidates for nomination for the Law Enforcement Medal of Honor, unless no nominations have been received by the Commission during a six month period.

(B) The Commission will determine the protocol for all award ceremonies.

(C) The Commission retains sole authority to approve administrative rule changes relating to the law enforcement medal of honor.

Stat. Auth.: ORS 176.260 & 181.640

Stats. Implemented: ORS 176.260 & 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0080, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 16-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; Administrative correction 5-7-02; BPSST 17-2002, f. & cert. ef. 7-5-02; DPSST 12-2007, f. & cert. ef. 10-15-07

259-008-0200

Civil Penalties

(1) For purposes of this rule, "agency" means a law enforcement unit or public or private safety agency as defined in OAR 259-008-0005.

(2) The Department may impose a civil penalty on any agency for any violation of ORS 181.644, 181.652, 181.653 or 181.665. All civil penalties will be imposed in the manner provided by 183.745.

(3) The amount of any civil penalty imposed under subsection (1) of this section may not exceed \$1,500 for any single violation.

Stat. Auth.: ORS 181.679, 183.745

Stats. Implemented: ORS 181.679, 183.745

Hist.: DPSST 13-2008, f. & cert. ef. 8-15-08

259-008-0220

Sanctions, Generally

(1) Information collected by the Department may be used as a basis for any sanction imposed.

(2) The Department's use of any one sanction does not preclude the imposition of any other sanction(s) for the same violation.

(3) If the Department believes there is substantial evidence that a violation has occurred or is occurring, the Department may seek such remedial relief as may be appropriate, including voluntary compliance or notice as provided in 259-008-0250.

Stat. Auth.: ORS 181.679, 183.745

Stats. Implemented: ORS 181.679, 183.745

Hist.: DPSST 13-2008, f. & cert. ef. 8-15-08

259-008-0250

Notice of Civil Penalty

(1) Considerations. In determining the amount of a civil penalty the Department will consider:

(a) Any prior violation of statute or rule by the agency;

(b) The financial benefits, if any, realized by the agency as a result of the violation, such as costs avoided as a result of not having attended required training;

(c) The gravity of the violation; and

(d) The agency's history of correcting violations and preventing recurrence of violations.

(2) Single Violation Civil Penalties. A violation of any requirement within any part of the following statutes is a violation that may result in a civil penalty after a single occurrence. The violations include, but are not limited to:

(a) ORS 181.644 (Certification requirements for a Telecommunicator);

(b) ORS 181.644 (Certification requirements for an Emergency Medical Dispatcher);

(c) ORS 181.652 (Certification requirements for a Corrections Officer);

(d) ORS 181.652 (Failing to attend Basic Corrections training within required timeframe);

(e) ORS 181.652 (U.S. citizenship requirements for a Corrections Officer);

(f) ORS 181.653 (Certification requirements for a Parole & Probation Officer);

(g) ORS 181.653 (U.S. citizenship requirements for a Parole & Probation Officer);

(h) ORS 181.653 (Part-time Parole & Probation continuing education requirement);

(i) ORS 181.665 (Certification requirements for a Police Officer);

(j) ORS 181.665 (Failing to attend Basic Police training within required timeframe);

(k) ORS 181.665 (U.S. citizenship requirements for a Police Officer).

(3) Amount of Civil Penalty:

(a) An agency found in violation of any requirement listed in section (2) of this rule is subject to a civil penalty of not more than \$1,500 per violation per day, unless otherwise provided by this section;

(b) The Department may reduce civil penalty amounts where mitigation is warranted, or resolved by stipulation as provided in section (9) of this rule.

(4) Payment to be Considered Admission of Violation. Unless the Department agrees otherwise, any payment of a civil penalty is considered as admission of violation of the statutes or rules cited in the civil penalty notice for which the civil penalty was paid.

(5) Notice. The Department's notice of its intent to impose a civil penalty will include a statement that if the agency fails to request a hearing within twenty (20) days of the date of service of the notice, the agency's right to a hearing is waived.

(6) Informal Conference. When the Department issues a notice of civil penalty, the agency will be entitled to an informal conference to respond to the notice. The conference must be held before a person authorized to issue an order or to make recommendations regarding issuance of an order. The Department must receive a request for an informal conference in writing within twenty (20) days of the date of service of the notice of civil penalty. If the agency fails to submit a timely request for a conference, the agency's right to a conference is waived.

(7) Hearing Request:

(a) Right to Hearing. If the Department issues a notice of intent to impose a civil penalty, the agency is entitled to a contested case hearing in accordance with the provisions of ORS Chapter 183;

(b) Request for Hearing. The Department must receive a request for a hearing in writing within twenty (20) days of the date the notice of intent to impose a civil penalty was served on the agency. The Department may extend the time allowed for submission of the admission/denial and affirmative defenses for up to 30 calendar days, if requested in writing.

(8) Default Order. If a hearing is not timely requested, or if an agency withdraws a hearing request or fails to appear at a scheduled hearing, the Department may enter a final order by default imposing the civil penalty. In the event of a default, the Department's file or files on the subject of the civil penalty automatically becomes a part of a contested case record for purposes of proving the Department's prima facie case.

(9) Department staff is authorized to seek resolution by stipulation, subject to Department acceptance and approval under the following conditions:

(a) The matter is resolved prior to entry of a final order assessing a civil penalty;

(b) The agency corrects or proceeds to correct all violations noted in a notice of intent to issue a civil penalty within a prescribed timeframe;

(c) The civil penalty amount agreed to is tendered in a certified check, bank draft, cashier's check or postal money order, made payable to the Department, along with the stipulation.

(10) A stipulation will not be accepted for less than the amount provided for in the notice of civil penalty if the violation is not corrected as part of the resolution.

Stat. Auth.: ORS 181.679, 183.745

Stats. Implemented: ORS 181.679, 183.745

Hist.: DPSST 13-2008, f. & cert. ef. 8-15-08

DIVISION 9**FIRE SERVICE PROFESSIONALS****259-009-0000****Policies and Objectives**

(1) The policies of the Board and Department in response to ORS 181.630 are:

(a) The Board and Department exist to develop talented individuals into public safety providers who are:

(A) Culturally competent;

(B) Ethically, physically and emotionally fit; and

(C) Well trained, highly skilled and responsive to the needs of their communities.

(b) The Board and Department shall promote the safety, efficiency, effectiveness, self-sufficiency and competence of fire service professionals.

(c) The Board and Department shall support collaboration among fire service organizations and the related organizations with whom they work and the interests of the communities they serve.

(d) The Board and Department shall consult with and inform each other fully on matters of fire standards, training and certification.

(e) The Board may adopt or approve all policies, standards and minimum requirements for public safety certifications and training.

(f) The Department may administer operations and procedures and implement or apply the policies and standards of the Board.

(g) The Department is and remains a full department of the state.

(2) The objectives of the Board and Department are:

(a) To improve public safety services in Oregon by raising the level of competence of fire service professionals.

(A) By establishing minimum standards for the training and certification of fire professionals.

(B) By providing, sponsoring, certifying or coordinating fire training courses.

(b) To conduct, facilitate, and promote studies and research designed to improve fire service within the state, and to assist in the implementation of Board recommendations.

Stat. Auth.: ORS 181.630 & 181.640

Stats. Implemented: ORS 181.630 & 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02

259-009-0005**Definitions**

(1) "Authority having jurisdiction" shall mean the Department of Public Safety Standards and Training.

(2) "Agency Head" means the chief officer of a fire service agency directly responsible for the administration of that unit.

(3) "Board" means the Board on Public Safety Standards and Training.

(4) "Chief Officer" means an individual of an emergency fire agency at a higher level of responsibility than a company officer. A chief officer supervises two or more fire companies in operations or manages and supervises a particular fire service agency program such as training, communications, logistics, prevention, emergency medical services provisions and other staff related duties.

(5) "Community College" means a public institution operated by a community college district for the purpose of providing courses of study limited to not more than two years full-time attendance and designed to meet the needs of a geographical area by providing educational services, including but not limited to vocational or technical education programs or lower division collegiate programs.

(6) "Company Officer" means a fire officer who supervises a company of fire fighters assigned to an emergency response apparatus.

(7) "Content Level Course" is a course that includes an identifiable block of learning objectives or outcomes that are required for certification at one or more levels.

(8) "Department" means the Department of Public Safety Standards and Training.

(9) "Director" means the Director of the Department of Public Safety Standards and Training.

(10) "Entry Level Fire Fighter" means an individual at the beginning of his/her fire service involvement. During the probationary period an entry level fire fighter is in a training and indoctrination period

under constant supervision by a more senior member of a fire service agency.

(11) "Field Training Officer" means an individual who is authorized by a fire service agency or by the Department to sign as verifying completion of tasks required by task books.

(12) "Fire Company" means a group of fire fighters, usually 3 or more, who staff and provide the essential emergency duties of a particular emergency response apparatus.

(13) "Fire Fighter" is a term used to describe an individual who renders a variety of emergency response duties primarily to save lives and protect property. This applies to career and volunteer personnel.

(14) "Fire Ground Leader" means a Fire Service Professional who is qualified to lead emergency scene operations."

(15) "Fire Inspector" means an individual whose primary function is the inspection of facilities in accordance with the specific jurisdictional fire codes and standards.

(16) "Fire Service Agency" means any unit of state or local government, a special purpose district or a private firm which provides, or has authority to provide, fire protection services.

(17) "Fire Service Professional" means a paid (career) or volunteer fire fighter, an officer or a member of a public or private fire protection agency who is engaged primarily in fire investigation, fire prevention, fire safety, fire control or fire suppression or providing emergency medical services, light and heavy rescue services, search and rescue services or hazardous materials incident response. "Fire service professional" does not include forest fire protection agency personnel.

(18) "Fire Training Officer" means a fire service member assigned the responsibility for administering, providing, and managing and/or supervising a fire service agency training program.

(19) "NFPA" stands for National Fire Protection Association which is a body of individuals representing a wide variety of professions, including fire protection, who develop consensus standards and codes for fire safety by design and fire protection agencies.

(20) "NFPA Airport Firefighter" means a member of a Fire Service Agency who has met job performance requirements of NFPA Standard 1003.

(21) "NFPA Driver-Operator" means a member of a fire service agency licensed to operate a fire service agency vehicle/apparatus in accordance with the job performance requirements of NFPA 1002 and who have met the Entry Level Fire Fighter requirements. Fire service agency vehicle/apparatus operators are required to be certified at NFPA 1001 fire fighter I standard prior to driver operator duties. Additional requirements are involved for those driver operators of apparatus equipped with an attack or fire pump, aerial devices, a tiller, aircraft firefighting and rescue vehicles, wildland fire apparatus, and mobile water supply apparatus (tanker/tender).

(22) "NFPA Fire Fighter I" means a member of a fire service agency who has met the level I job performance requirements of NFPA standard 1001. Sometimes referred to as a journeyman fire fighter.

(23) "NFPA Fire Fighter II" means a member of a fire service agency who met the more stringent level II job performance requirements of NFPA Standard 1001. Sometimes referred to as a senior fire fighter.

(24) "NFPA Fire Inspector I" means an individual who conducts basic fire code inspections and has met the level I job performance requirements of NFPA Standard 1031.

(25) "NFPA Fire Inspector II" means an individual who conducts complicated fire code inspections, reviews plans for code requirements, and recommends modifications to codes and standards. This individual has met the level II job performance requirements of NFPA standard 1031.

(26) "NFPA Fire Investigator" means an individual who conducts post fire investigations to determine the cause and the point of origin of fire. This individual has met the job performance requirements of NFPA Standard 1033.

(27) "NFPA Fire Officer I" means the fire officer, at the supervisory level, who has met the job performance requirements specified in NFPA 1021 Standard Fire Officer Professional Qualifications. (Company officer rank)

(28) "NFPA Fire Officer II" means the fire officer, at the supervisory/managerial level, who has met the job performance requirements in NFPA Standard 1021. (Station officer, battalion chief rank)

(29) "NFPA Fire Officer III" means the fire officer, at the managerial/administrative level, who has met the job performance requirements in NFPA Standard 1021. (District chief, assistant chief, division chief, deputy chief rank)

(30) "NFPA Fire Officer IV" means the fire officer, at the administrative level, who has met the job performance requirements in NFPA Standard 1021. (Fire Chief)

(31) NFPA Instructor I means a fire service instructor who has demonstrated the knowledge and ability to deliver instruction effectively from a prepared lesson plan, including instructional aids and evaluation instruments; adapt lesson plans to the unique requirements of the students and authority having jurisdiction; organize the learning environment so that learning is maximized; and meet the record-keeping requirements of authority having jurisdiction.

(32) NFPA Instructor II means a fire service instructor who, in addition to meeting Instructor I qualifications, has demonstrated the knowledge and ability to develop individual lesson plans for a specific topic including learning objectives, instructional aids, and evaluation instruments; schedule training sessions based on overall training plan of authority having jurisdiction; and supervise and coordinate the activities of other instructors.

(33) NFPA Instructor III means a fire service instructor who, in addition to meeting Instructor II qualifications, has demonstrated the knowledge and ability to develop comprehensive training curricula and programs for use by single or multiple organizations; conduct organization needs analysis; and develop training goals and implementation strategies.

(34) "NFPA Marine Land-Based Fire Fighter" means a member of a fire service agency who meets the job performance requirements of NFPA 1005.

(35) "Service Delivery" means to be able to adequately demonstrate, through job performance, the knowledge, skills, and ability of a certification level.

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

(37) "Task Performance" means to be able to demonstrate the ability to perform the tasks, of a certification level, in a controlled environment while being evaluated.

(38) "The Act" refers to the Public Safety Standards and Training Act (ORS 181.610 to 181.705).

(39) "Topical Level Course" is a course that does not include an identifiable block of learning objectives or outcomes that are required for certification at one or more levels.

(40) "Track" means a field of study required for certification.

(41) "Waiver" means to refrain from pressing or enforcing a rule.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 2-2006, f. & cert. ef. 1-24-06; DPSST 9-2006, f. & cert. ef. 7-7-06; DPSST 2-2007, f. & cert. ef. 1-12-07; DPSST 10-2008, f. & cert. ef. 7-15-08

259-009-0010

Personnel Action Forms

(1) All public or private fire service agencies shall furnish to the Department the name, address, and other pertinent information concerning any newly appointed fire service professional on a Personnel Action Form (DPSST Form PAF-1) within thirty (30) business days after employment.

(2) Whenever fire service personnel resign, retire, or terminate employment, are discharged, or deceased, the agency head shall report this information to the Department on a Personnel Action Form (DPSST Form PAF-1) within thirty (30) business days of the action.

(a) The agency must notify the Department in writing when a fire service professional is promoted to a fire chief position, when a new agency head designee is assigned, or when a fire service professional is promoted to a training officer position.

(b) The agency must notify the Department in writing when a fire service professional is no longer assigned the duties of a fire chief, agency head designee or training officer.

(3) All applicable sections of the Personnel Action Form (DPSST Form PAF-1) must be completed and signed by the agency head or an authorized representative.

(4) All applicants shall furnish to the Department on a Personnel Action Form (DPSST Form PAF-1) their social security number. The social security number is used to accurately identify the applicant

and to verify information provided by fire service professionals under the Act in connection with revocation proceedings.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 4-23-04

259-009-0020

Waiver for Equivalent Training or Experience — Reciprocity

(1) The Board or its designee may waive the completion of any course required by OAR 259-009-0025 upon presentation of documentary evidence by a fire service agency that the fire service professional has satisfactorily completed equivalent training or experience.

(2) In order to be considered for equivalency, training received in a state with laws governing or regulating training of fire service professionals shall, if subject to such review, have been approved or certified by the employing agency in the state in which the training was received.

(3) The Department may elect to prescribe as a condition of certification successful completion of specified courses or remedial training.

(4) The Department may enter into standing reciprocity compacts or agreements with those states which by law regulate and supervise the quality of fire service training and which require a minimum number of hours of classroom training equivalent to standards established by the Board.

Stat. Auth.: ORS 181.660

Stats. Implemented: ORS 181.660

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02

259-009-0025

College Education Credits

(1) College credits used for certification shall have been earned at a recognized college or university listed below or under subsection (2) of this rule. The Department shall only recognize those credits awarded by an accredited, degree-granting college or a university of post secondary education which is recognized by the Council for Higher Education (CHEA) or by the Council on Postsecondary Accreditation (COPA)/Commission of Recognition of Postsecondary Accreditation (CORPA), as outlined in the current edition of the Higher Education Directory (HED).

(2) College credits used for certification obtained in a foreign country, which certificate, credential, or degree is claimed to be comparable to a certificate, credential, or degree granted by a licensing body in the United States or US Territories must be evaluated by a credentialing agency that is a member of the National Association of Credential Evaluation Services (NACES). The Department/Board has no responsibility for obtaining and/or paying for the evaluation and arranging for an official copy to be sent by the evaluating agency to the Department. The evaluation must be approved by the Department, based upon review of an official copy sent by the evaluating agency directly to the Department, before the educational credit is accepted as equivalent.

(3) Certification Credit. Persons wishing to document college education shall furnish the Department official transcripts or a certified true copy of official transcripts.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02

259-009-0030

Fire Policy Committee

(1) The Fire Policy Committee consists of:

(a) All of the board members who represent the fire service discipline; and

(b) The following, who may not be current board members, appointed by the chairperson of the board:

(A) One person recommended by and representing a statewide association of fire instructors;

(B) One person recommended by and representing a statewide association of fire marshals;

(C) One person recommended by and representing community college fire programs; and

(D) One non-management fire fighter recommended by a statewide organization of fire fighters.

(2) Policies and Objectives:

(a) In making appointments to the policy committees under this section, the chairperson of the board shall seek to reflect the diversity of the state's population. An appointment made by the chairperson of the board must be ratified by the board before the appointment is effective.

(b) The chairperson of the board may remove an appointed member for just cause.

(c) An appointment to a policy committee that is based on the member's employment is automatically revoked if the member changes employment.

(d) The chairperson of the board shall fill a vacancy in the same manner as making an initial appointment.

(e) The term of an appointed member is two years.

(f) An appointed member may be appointed to a second term.

(3)(a) A policy committee may meet at such times and places as determined by the policy committee in consultation with the Board and Department.

(b) A majority of a policy committee constitutes a quorum to conduct business.

(c) A policy committee may create subcommittees if needed.

(4)(a) Each policy committee shall develop policies, requirements, standards and rules relating to its specific discipline.

(A) A policy committee shall submit its policies, requirements, standards and rules to the board for the board's consideration.

(B) When a policy committee submits a policy, requirement, standard or rule to the board for the board's consideration, the board shall:

(i) Approve the policy, requirement, standard or rule;

(ii) Disapprove the policy, requirement, standard or rule; or

(iii) Defer a decision and return the matter to the policy committee for revision or reconsideration.

(b) The board may defer a decision and return a matter submitted by a policy committee under paragraph (a) of this subsection only once. If a policy, requirement, standard or rule that was returned to a policy committee is resubmitted to the board, the board shall take all actions necessary to implement the policy, requirement, standard or rule unless the board disapproves the policy, requirement, standard or rule.

(c) Disapproval of a policy, requirement, standard or rule under paragraph (a) or (b) of this subsection requires a two-thirds vote by the members of the board.

(5) At any time after submitting a matter to the board, the chairperson of the policy committee may withdraw the matter from the board's consideration.

(6) Past decisions of the advisory committees will not dictate precedence for decisions to be made by the policy committees.

(7) Policy committees are to be governed by the most recent edition of their by-laws.

Stat. Auth.: ORS 181.640 & 181.765

Stats. Implemented: ORS 181.640 & 181.765

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02

259-009-0035

Certificates Are Property of Department

Certificates and awards are the property of the Department, and the Department shall have the power to revoke or recall any certificate or award as provided in the Act.

Stat. Auth.: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665

Stats. Implemented: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02

259-009-0059

Minimum Standards for Employment as a Fire Service Professional

(1) No person may be certified as a Fire Service Professional who has not yet attained 18 years of age.

(2) Only training received after attaining the age of 16 may be applied for certification purposes.

(3) DPSST Fire Service Agency affiliation may be attained after the age of 16 via submission of a PAF-1 (Personnel Action Form).

Stat. Auth.: ORS 181.610 & 181.640

Stats. Implemented: ORS 181.610 & 181.640

Hist.: DPSST 1-2006(Temp), f. & cert. ef. 1-23-06 thru 6-1-06; DPSST 5-2006, f. & cert. ef. 5-3-06

259-009-0062

Fire Service Personnel Certification

(1) A fire service professional affiliated with an Oregon fire service agency may be certified by satisfactorily completing the

requirements specified in section (2) of this rule: through participation in a fire service agency training program accredited by the Department; or through a course certified by the Department; or by evaluation of experience as specified in OAR 259-009-0063. The Department may certify a fire service professional who has satisfactorily completed the requirements for certification as prescribed in section (2) of this rule, including the Task Performance evaluations if applicable.

(2) The following standards for fire service personnel are hereby adopted by reference:

(a) The provisions of the NFPA Standard 1001, 2002 Edition, entitled "Fire Fighter Professional Qualifications";

(A) "Authority having jurisdiction" shall mean the Department of Public Safety Standards and Training.

(B) Delete section 1.3.1 (Note: this references NFPA 1500).

(C) Delete section 2.2 (Note: this references NFPA 1500 and 1582).

(D) Entry Level Fire Fighter means an individual trained to the requirements of Section 2-1 Student Prerequisites, NFPA Standard 1403, 1997 Edition, entitled "Live Fire Training Evolutions" and the applicable safety requirements adopted by OR-OSHA. An individual trained to this level and verified so by the agency head is qualified to perform live-fire training exercises and to perform on the emergency scene under constant supervision. An Entry Level Fire Fighter should be encouraged to complete Fire Fighter I training within one year.

(E) All applicants for certification must complete either a Task Performance Evaluation or a Department approved Task Book for Fire Fighter I and Fire Fighter II, signed off by the Agency Head or Training Officer, before an applicant can qualify for certification.

(b) The provisions of the NFPA Standard 1002, 2003 Edition, entitled "Fire Department Vehicle Driver/Operator Professional Qualifications," are adopted subject to the following definitions and modifications hereinafter stated:

(A) 5.1 General. The requirements of NFPA 1001 Fire Fighter I, as specified by the Department and the job performance requirements defined in Sections 5.1 and 5.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Pumper.

(B) 6.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 6.1 and 6.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Aerial.

(C) 7.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 7.1 and 7.2 must be met prior to certification as a Fire Service Agency Driver/Operator-Tiller.

(D) 8.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 8.1 and 8.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Wildland Fire Apparatus.

(E) 9.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 9.1 and 9.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Aircraft Rescue and Fire Fighting Apparatus (ARFF).

(F) 10.1 General. The requirements of NFPA 1001 Fire Fighter I and NFPA 1002 Fire Apparatus Driver/Operator, as specified by the Department and the job performance requirements defined in Sections 10.1 and 10.2, must be met prior to certification as a Fire Service Agency Driver/Operator-Mobile Water Supply Apparatus.

(G) Delete "the requirements of NFPA 1500, Standard on Fire Department Occupational Safety and Health Program".

(H) All applicants for certification must complete either a Task Performance Evaluation or a Department approved Task Book for: Driver, Pumper Operator, Aerial Operator, Tiller Operator, Wildland Fire Apparatus Operator, Aircraft Rescue and Fire-Fighting Apparatus Operator or Mobile Water Supply Apparatus Operator and signed off by the Agency Head or Training Officer before an applicant can qualify for certification.

(I) An individual who completes the requirements of Chapter 4 and meets the requirements of Entry Level Fire Fighter (NFPA 1403) may be certified as a Driver.

(c) The provisions of the NFPA Standards 1003, 2005 Edition, entitled "Standard for Airport Fire Fighter Professional Qualifications,"

(A) 6.1 General. Prior to certification as a Fire Service Agency NFPA 1003 Airport Fire Fighter, the requirements of NFPA 1001 Fire Fighter II and NFPA 1002 Aircraft Rescue and Fire Fighting Apparatus Operator (ARFF), as specified by the Department, and the job performance requirements defined in sections 6.1 through 6.4 must be met.

(B) All applicants for certification must complete either a Task Performance Evaluation or a Department-approved Task Book for: Airport Fire Fighter and signed off by the Agency Head or Training Officer before an applicant can qualify for certification.

(d) The provisions of NFPA Standard 1005, 2007 Edition, entitled "Marine Fire Fighting for Land Based Fire Fighters Professional Qualifications," are adopted subject to the following definitions and modifications:

(A) "Authority having jurisdiction" means the Department of Public Safety Standards and Training.

(B) Delete section 2.2 (Note: This references NFPA 1500);

(C) Delete sections of 2.4 (Note: This references NFPA 1000, NFPA 1081, NFPA 1405, NFPA 1670 and NFPA 1710.)

(D) 5.1 General. Prior to certification as a Fire Service Agency NFPA 1005 Marine Land-Based Fire Fighter, the requirements of NFPA 1001 Fire Fighter II, as specified by the Department.

(E) All applicants for certification must complete a Department approved Task Book for: Marine Fire Fighting for Land Based Fire Fighters and signed off by the Agency Head or Training Officer before an applicant can qualify for certification.

(F) Transition Phase:

(i) An application for certification in Marine Fire Fighting for Land Based Fire Fighters must be submitted to the Department no later than June 30, 2009 to receive consideration for certification without having to complete a task book.

(ii) All applications received on or after July 1, 2009, will need to show completion of the approved task book.

(e) The provisions of the NFPA Standard No. 1031, Edition of 1998, entitled "Professional Qualifications for Fire Inspector and Plan Examiner" are adopted subject to the following definitions and modifications:

(A) Transition Phase:

(i) November 1, 2000, all new certifications will be based on NFPA 1031.

(ii) November 1, 2000, through January 1, 2005, any certified Fire Prevention/Investigation Officer I may become certified at NFPA Fire Inspector I.

(iii) November 1, 2000, anyone certified as an Oregon Fire Prevention Officer II will be certified as an NFPA Fire Inspector II.

(iv) November 1, 2000, anyone certified as an Oregon Fire Prevention Officer III will be certified as an NFPA Fire Inspector III.

(v) An individual who has been working toward certification using Fire Prevention/Investigation Officer (SFM-P-7 10/88) may complete certification based on that standard until January 1, 2005.

(B) All applicants for certification as an NFPA Fire Inspector I shall:

(i) Successfully complete a Department approved Task Book; and

(ii) Furnish proof that they have passed an exam demonstrating proficiency in the model fire code adopted by the State of Oregon or an equivalent.

(C) All applicants for certification as an NFPA Fire Inspector II shall:

(i) Hold a certification as a Fire Inspector I; and

(ii) Successfully complete a Department approved Task Book.

(D) All applicants for certification as an NFPA Fire Inspector III shall:

(i) Hold a certification as a Fire Inspector II; and

(ii) Successfully complete a Department approved Task Book.

(E) Task books shall be monitored by a Field Training Officer approved by the Department. The Field Training Officer shall be certified at or above the level being monitored and have at least 5 years inspection experience. The Department may approve other Field Training Officers with equivalent training, education and experience as determined by designated Department Staff.

(f) The provisions of the NFPA Standard No. 1033, Edition of 1998, entitled “Professional Qualifications for Fire Investigator” are adopted subject to the following definitions and modifications:

(A) Transition Phase:

(i) Beginning November 1, 2000, all new certifications will be based on NFPA 1033.

(ii) November 1, 2000, anyone certified as an Oregon Fire Investigator II will be certified as an NFPA Fire Investigator and will continue to be recognized as an Oregon Fire Investigator II. No new Oregon Fire Investigator II certificates will be issued after January 1, 2005.

(iii) November 1, 2000, anyone certified as an Oregon Fire Investigator III will be certified as an NFPA Fire Investigator and will continue to be recognized as an Oregon Fire Investigator III. No new Oregon Fire Investigator III certificates will be issued after January 1, 2005.

(iv) An individual who has been working toward certification using Fire Prevention/Investigation Officer (SFM-P-7 10/88) may complete certification based on that standard until January 1, 2005.

(B) All applicants for certification as a Fire Investigator shall successfully complete a Department approved Task Book prior to passing a written certification exam administered by the Department. Exception: Anyone holding a valid IAAI Fire Investigator Certification is exempt from taking the Department’s Fire Investigator written exam.

(C) Task books shall be monitored by a Field Training Officer approved by the Department. The Field Training Officer shall be certified at or above the level being monitored and have at least 5 years fire investigation experience. The Department may approve other Field Training Officers with equivalent training, education and experience as determined by designated Department Staff.

(g) The provisions of the NFPA Standard No. 1035, Edition of 2000, entitled “Professional Qualifications for Public Fire and Life Safety Educator” are adopted subject to the following definitions and modifications:

(A) Chapter 6 (Six) “Juvenile Firesetter Intervention Specialist I” and Chapter 7 (Seven) “Juvenile Firesetter Intervention Specialist II,” Oregon-amended, shall be adopted with the following changes:

(i) Change the following definitions:

(I) 1-4.4 Change the definition of “Assessment” to read: “A structured process by which relevant information is gathered for the purpose of determining specific child or family intervention needs conducted by a mental health professional.”

(II) 1-4.11 Change the title of “Fire Screener” to “Fire Screening” and the definition to read “The process by which we conduct an interview with a firesetter and his or her family using state approved forms and guidelines. Based on recommended practice, the process may determine the need for referral for counseling and/or implementation of educational intervention strategies to mitigate effects of fire-setting behavior.”

(III) 1-4.14 Include “insurance” in list of agencies.

(IV) 1-4.15 Change the definition to read: “...that may include screening, education and referral for assessment for counseling, medical services.”

(V) 1-4.16 Change “person” to “youth” and change age from 21 to 18.

(VI) 1-4.17 Add “using state-approved prepared forms and guidelines.”

(VII) 1-4.22 Add “...or by authority having jurisdiction.”

(VIII) 1-4.24 Add “...or as defined by the authority having jurisdiction.”

(ii) Under 6-1 General Requirements, delete the statement, “In addition, the person shall meet the requirements for Public Fire and Life Safety Educator I prior to being certified as a Juvenile Firesetter Intervention Specialist I.”

(B) A task book shall be completed prior to certification as a Public Fire and Life Safety Educator I, II or III.

(C) A task book shall be completed prior to certification as a Public Information Officer.

(D) A task book shall be completed prior to certification as a Juvenile Firesetter Intervention Specialist I and II.

(h) The provisions of the NFPA Standard No. 1041, Edition of 1996, entitled “Standard for Fire Service Instructor Professional Qualifications,” are adopted subject to the following definitions and modifications:

(A) “Fundamentals of Instruction” shall mean a 16-hour instructor training course for those instructors used for in-house training. This course includes a task book. This course does not lead to certification.

(B) Successfully complete an approved task book for Fire Service Instructor I and II.

(i) This requirement is effective for any application for certification after January 4, 2002.

(i) The provisions of the NFPA Standard 1021, 2003 Edition, entitled “Standards for Fire Officer Professional Qualifications,” are adopted subject to the following definitions and modifications:

(A) 4.1 General. For certification as Fire Officer I, the candidate must be certified at NFPA 1001 Fire Fighter II, and NFPA 1041 Fire Instructor I, as defined by the Department, and meet the job performance requirements defined in Sections 4.2 through 4.7 of this Standard.

(i) Amend section 4.1.2 General Prerequisite Skills to include college courses or Department approved equivalent courses in the following areas of study: Written Communication, Advanced Speech, Technical Writing/Business Writing, Math, and Physics or Chemistry.

(ii) All applicants for certification must complete either a Task Performance Evaluation or a Department approved Task Book for; NFPA Fire Officer I and signed off by the Agency Head or Training Officer before an applicant can qualify for certification..

(B) 5.1 General. For certification as NFPA Fire Officer II, the candidate must be certified as NFPA Fire Officer I, as defined by the Department, and meet the job performance requirements defined in Section 5.2 through 5.7 of the Standard.

(i) Amend section 5.1.2 General Prerequisite Skills to include college courses or Department approved equivalent courses in the following areas of study: Psychology or Sociology.

(ii) Amend section 5.3 Community and Government Relations to include State and Local Government or Department approved equivalent courses.

(iii) All applicants for certification must complete either a Task Performance Evaluation or a Department approved Task Book for NFPA Fire Officer II, and signed off by the Agency Head or Training Officer, before an applicant can qualify for certification.

(C) 6.1 General. For certification as NFPA Fire Officer III, the candidate must be certified as a NFPA Fire Officer II, NFPA, NFPA 1041 Fire Instructor II, as defined by the Department, and meet the job performance requirements defined in Sections 6.2 through 6.7 of the Standard.

(i) Amend section 6.1 to allow individuals certified as NFPA 1033 Fire Investigator, NFPA 1035 Public Fire and Life Safety Educator, or NFPA 1031 Fire Inspector III to apply for certification without attaining NFPA 1001 Fire Fighter II.

(D) 7.1 General. For certification as NFPA Fire Officer IV the candidate must be certified as NFPA Fire Officer III, as defined by the Department, and meet the job performance requirements in Sections 7.2 through 7.7 of the Standard.

(i) 5-1.2 General Requisite Skill: the ability to effectively apply prerequisite knowledge.

(ii) 5-1.3 Existing Curricula — Advanced Institute Classes which would meet Fire Protection Executive Course Requirements: Master Planning; Advanced Legal Aspects; Advanced Fiscal Management; Local Government and Community Politics; Organizational Psychology; Management Information Systems; Labor Management Relations.

(j) Hazardous Materials Responder (DPSST-P-12 1/96).

(k) Fire Ground Leader.

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

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

(C) An applicant would need to document training in seven areas:

(i) Building Construction: Non-Combustible;

(ii) Building Construction: Combustible;

(iii) Incident Safety Officer or Fire Fighter Safety;

(iv) Managing Water Supplies Operations;

(v) MCTO — Preparation or PICO;

(vi) MCTO — Decision Making;

(vii) MCTO — Tactics or STICO;

(viii) Incident Command System;

(vix) Fire Investigation.

(D) A task book shall be completed before certification is awarded.

(l) Wildland Interface Fire Fighter, Wildland Interface Engine Boss/Officer, Wildland Strike Team leader, Wildland Division/Group Supervisor (DPSST Wildland Interface Certification Guide, Revised September, 2003).

(m) Maritime Fire Service Operator Standards Professional Qualifications (October, 1999) and completion of an approved task book.

(A) Historical Recognition:

(i) The application shall be submitted with the Fire Chief or designee's signature attesting to the skill level and training of the applicant.

(ii) The application must be submitted to the Department no later than October 1, 2004, to receive certification for Maritime Fire Service Operator without having to complete the task book.

(iii) All applications received after October 1, 2004, will need to show completion of the approved task book.

(n) Certification guide for Wildland Fire Investigator (August, 2005).

(o) The provisions of the NFPA Standard No. 1006, Edition of 2000, entitled, "Professional Qualifications for Rescue Technician" are adopted subject to the following modifications:

(A) The Authority Having Jurisdiction shall mean the local or regional fire service agency.

(B) Historical Recognition:

(i) Application shall be submitted with the Fire Chief or designee's signature attesting to the skill level and training of the applicant.

(ii) The application to use historical recognition shall be submitted to DPSST on or before March 31, 2003.

(C) Instructors:

(i) Curriculum must be certified by DPSST to meet NFPA 1006.

(ii) An instructor delivering training under a fire service agency's accreditation agreement must be a certified technician in that specialty rescue area.

(D) Task Books:

(i) A task book must be completed for each of the six specialty rescue areas applied for.

(ii) Only a certified technician in that specialty rescue area can sign off the task book.

(iii) The requirements in Chapters 2 and 3 need to be met only one time for all six specialty rescue areas.

(p) Urban Search and Rescue.

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

(B) The following eleven (11) specialty Urban Search and Rescue (USAR) certifications are adopted:

(i) Task Force Leader;

(ii) Safety Officer;

(iii) Logistics Manager;

(iv) Rescue Team Manager;

(v) Rescue Squad Officer;

(vi) Rescue Technician;

(vii) Medical Technician;

(viii) Rigging Technician;

(ix) Search Team Manager;

(x) Search Squad Officer;

(xi) Search Technician.

(C) An applicant applying for any USAR certification(s) must complete the appropriate application(s) attesting to completion of the required training.

(3) Task performance evaluations, where prescribed, shall be required prior to certification. Such examinations shall be conducted in the following manner:

(a) Task performance competency shall be evaluated by three people nominated by the employing fire service agency's Chief Officer for approval by the Department or its designated representative.

(b) The employing fire service agency's equipment and operational procedures shall be used in accomplishing the task performance to be tested.

(c) Specific minimum testing procedures, as provided by the Department, shall be used for administration of the evaluation.

(d) The training officer for an accredited fire service agency training program must notify the Department or its designated representative prior to performing a Task Performance Evaluation.

(e) At the request of the fire chief, a representative of the Department will be designated to monitor the task performance evaluation for personnel from a fire service agency whose training program is not accredited.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 11-2003 f. & cert. ef. 7-24-03; DPSST 13-2003(Temp), f. & cert. ef. 10-27-03 thru 3-31-04; DPSST 3-2004(Temp), f. & cert. ef. 4-9-04 thru 10-1-04; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 2-2006, f. & cert. ef. 1-24-06; DPSST 9-2006 f. & cert. ef. 7-7-06; DPSST 14-2006, f. & cert. ef. 10-13-06; DPSST 16-2006, f. & cert. ef. 11-20-06; DPSST 2-2007, f. & cert. ef. 1-12-07; DPSST 10-2008, f. & cert. ef. 7-15-08

259-009-0063

Credit for Experience

(1) A fire service professional with three years experience in a fire department may apply to be evaluated for certification based upon experience and accumulated knowledge.

(2) A fire service professional may petition for credit for prior learning. The individual shall describe in writing all experience and training pertinent to the standard being challenged. The material presented shall be reviewed by a panel of three fire service professionals, appointed by the Department or designated staff. The fire service professionals shall determine what credit, if any shall be granted to the individual.

(3) Applicants may take a competency examination, if available. Applicants who fail examinations for any specific requirement may not be re-examined for a period of sixty days. Applicants who fail examinations for specific requirements may, after a sixty day interim period, apply to the Department to be re-examined by written or oral examination. Oral examinations shall be conducted by a representative of the Department.

(4) The Department may enter into a learning contract with a fire service professional for any standards that are needed. Upon successful completion of the contract the individual shall be granted credit for the job performance requirements. The contract shall be in writing and signed by the Director or designated representative and the individual seeking credit. The contract shall include a course of study, an evaluation process and a completion date.

(5) The Department or its designated representative shall notify the applicant of the results of the evaluation within sixty (60) days.

(6) The Department or its designated representative may grant certification to the applicant when the evaluation indicates the applicant's experience and knowledge exceed the minimum established standards. (Note: See also OAR 259-009-0020)

Stat. Auth.: ORS 181.660

Stats. Implemented: ORS 181.660

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02

259-009-0065

Maintenance

(1) The Training Officer must verify that individuals have successfully performed essential functions for each certification through service delivery (see OAR 259-009-0005(29)), task performance (see OAR 259-009-0005(31)), or sufficient education or training hours to verify each member's certification pursuant to OAR 259-009-0065(2). Any certificate not verified by the agency will be recalled. Verification that maintenance requirements have been completed must be submitted to the Department by December 31st of every even year.

(2) Maintenance requirements must be demonstrated by completing any combination of one or more of the following:

(a) Service Delivery;

(b) Task Performance;

(c) Education;

(d) Training.

(3) Operation Track:

(a) NFPA Fire Fighter I, NFPA Fire Fighter II, NFPA Driver, Hazmat First Responder, Hazmat Technician, NFPA Airport Fire Fighter, NFPA Pumper Operator, NFPA Aerial Operator, NFPA Tiller Operator, NFPA Aircraft Rescue and Firefighting Apparatus Operator, Wildland Fire Apparatus Operator, NFPA Mobile Water Supply Apparatus Operator, NFPA Fire Officer I, NFPA Fire Officer II, Fire Ground Leader, NFPA Rescue Technician (Rope, Water, Vehicle, Confined Space, Structural, Trench), On Scene Incident Command, Wildland Interface (Fire Fighter, Engine Boss, Strike Team Leader, Wildland Interface Division Supervisor), Maritime Operator (Awareness,

Chapter 259 Department of Public Safety Standards and Training

Deck Hand, Boat Operations, Rescue Boat, Fire Boat) certification levels must complete maintenance requirements for Operation Track.

(b) If the Training Officer chooses to verify maintenance requirements through training or education, the maintenance requirements for the Operation Track is sixty (60) hours completed annually.

(4) Instructor Track

(a) Instructor I, II and III certification levels must complete maintenance requirements for Instructor Track.

(b) If the Training Officer chooses to verify maintenance requirements through training or education, the maintenance requirements for the Instructor Track is four (4) hours completed annually.

(5) Prevention/Public Education/Administration Track

(a) NFPA Public Fire/Life Safety Educator I, NFPA Public Fire/Life Safety Educator II, Public Fire/Life Safety Educator III, NFPA Public Information Officer, NFPA Juvenile Firesetter Intervention Specialist I, NFPA Juvenile Firesetter Intervention Specialist II, NFPA Fire Officer III, NFPA Fire Officer IV, Investigator, Wildland Investigator, NFPA Fire Inspector I, NFPA Fire Inspector II, NFPA Fire Inspector III certification levels must complete maintenance requirements for Prevention/Public Education/Administration Track.

(b) If the Training Officer chooses to verify maintenance requirements through training or education, the maintenance requirement for the Prevention/Public Education/Administration Track is twelve (12) hours completed annually.

(6) A Fire Service Professional certified and performing duties in more than one track must complete the maintenance requirements for each track.

(7) A minimum passing score of 70 percent must be achieved for any level of certification that requires completion of a written test.

(8) Failure to notify the Department that the Fire Service Professional's maintenance requirements have been completed will result in a warning notification letter being sent to the agency head and the Training Officer.

(a) A three (3) month extension will be automatically authorized if requested in writing.

(b) Failure to complete maintenance requirements and submit the completed appropriate form, after the warning notification letter and before the three (3) month extension has expired, will result in the recall of the Fire Service Professional's certification.

(c) Subject to Department approval, re-certification following a recall may be obtained by submitting the following:

(A) The employing agency head must request certification, and submit documentation explaining why the maintenance requirements were not completed or verified; and

(B) Submit verification that the maintenance requirements have been completed.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 2-2006, f. & cert. ef. 1-24-06

259-009-0067

Lapsed Certification

(1) All levels of certification of any fire service professional shall be considered lapsed if the individual has not been utilized as such for more than twelve (12) consecutive months.

(2) A fire service professional whose certification has lapsed may apply for re-certification upon re-utilization as a fire service professional:

(a) The fire service professional must complete a Department task book, task performance evaluation or approved training;

(b) Upon successful completion of the appropriate testing or evaluation, as verified by the signature and recommendation of the agency head or designee, the fire service professional whose certification has lapsed, may request reinstatement of his/her certification. The request must be made to the Department by submitting the appropriate form.

Stat. Auth.: ORS 181.652, 181.653 & 181.667

Stats. Implemented: ORS 181.652, 181.653 & 181.667

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 4-23-04; DPSST 6-2007, f. & cert. ef. 3-14-07

259-009-0070

Denial/Revocation

(1) It is the responsibility of the Board to set the standards, and of the Department to uphold them, to insure the highest levels of professionalism and discipline. These standards shall be upheld at all

times unless the Board determines that neither the safety of the public or respect of the profession is compromised.

(2) For purposes of this rule, the following definitions will apply:

(a) "Denial" or "Deny" means the refusal to grant a fire service certification for mandatory grounds or discretionary disqualifying misconduct as identified in this rule, pursuant to the procedures identified in (9) of this rule.

(b) "Discretionary Conviction" means a conviction identified in OAR 259-009-0070(6).

(c) "Discretionary Disqualifying Misconduct" means misconduct identified in OAR 259-009-0070(4).

(d) "Revocation" or "Revoke" means to withdraw the certification of a fire service professional for mandatory grounds or discretionary disqualifying misconduct as identified in this rule, pursuant to the procedures identified in subsection (9) of this rule.

(3) Mandatory Grounds for Denying or Revoking Certification of a Fire Service Professional or Instructor:

(a) The Department must deny or revoke the certification of any fire service professional or instructor, after written notice, and a hearing if requested, based upon a finding that:

(A) The fire service professional or instructor has been convicted in this state of a crime listed in ORS 137.700 or in any other jurisdiction of a crime that, if committed in this state would constitute a crime listed in ORS 137.700.

(B) The fire service professional or instructor has been discharged for cause from employment as a fire service professional or instructor.

(b) For purposes of this rule, "discharged for cause", means an employer initiated termination of employment for any of the following reasons:

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

(B) Disregard for the Rights of Others: Includes constitutional violations, respect for the rights of others, protecting the vulnerable and the fundamental duty to protect and serve;

(C) 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 fire service professional or instructor would observe in a similar circumstance;

(D) Incompetence: means a demonstrated lack of ability to perform the essential tasks of a fire service professional or instructor.

(E) Misuse of Authority: Includes abuse of public trust, obtaining a benefit or avoidance of detriment, and actions under the color of office.

(4) Discretionary Grounds for Denying or Revoking Certification of a Fire Service Professional or Instructor:

(a) The Department may deny or revoke the certification of any fire service professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:

(A) The fire service professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The fire service professional or instructor has been convicted of a crime listed in subsection (6) of this rule.

(b) The Department will not initiate revocation proceedings for a discretionary conviction against any certification that a fire service professional or instructor has been granted prior to the effective date of this rule.

(c) The Department may initiate denial or revocation proceedings for a discretionary conviction that occurred prior to the effective date of this rule for any fire service professional or instructor who applies for a fire service certification not held prior to the effective date of this rule.

(5) The Department, through the Fire Policy Committee and Board, has defined core values that are integral to the fire service profession. These values are:

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

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

(c) Category III: Justice. Justice includes just treatment, the quality or characteristic of being just, impartial, or fair; integrity and honesty.

(6) Pursuant to ORS 181.662(3)(b), the Department has determined that, in the absence of a determination to the contrary by the Fire Policy Committee and Board, a Fire Service Professional or Instructor who has been convicted of the following crimes has violated the core values of the fire service profession and may not be fit to receive or hold certification: [Table not included. See ED. NOTE.]

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

(a) In determining the initial minimum period of ineligibility for discretionary disqualifying misconduct, the Fire Policy Committee and the Board will take into consideration any aggravating and mitigating circumstances as identified in section (9)(d) of this rule.

(b) Any subsequent eligibility to apply for certification will be determined by the Board, after a review by the Fire Policy Committee, subject to the provisions of section (11) of this rule.

(8) Scope of Revocation. Whenever the Department revokes the certification of any fire service professional or instructor, the revocation shall embrace all fire service certificates the Department has issued to that person.

(9) Revocation and Denial Procedure.

(a) Agency Initiated Review: When the entity utilizing a fire service professional or instructor requests that the person's certification be revoked or denied, it must submit in writing to the Department the reason for the requested revocation or denial and all factual information supporting the request.

(b) Department Initiated Review: Upon receipt of factual information from any source, and pursuant to ORS 181.662, the Department may request that the fire service professional's or instructor's certification be revoked or denied.

(c) Department Staff Review: When the Department receives information, from any source, that a fire service professional or instructor may not meet the established standards for Oregon fire service professionals or instructors, the Department will review the request and the supporting factual information to determine if the request for denial or revocation meets statutory and administrative rule requirements.

(A) If the reason for the request does not meet the statutory and administrative rule requirements for denial or revocation the Department will notify the requestor.

(B) If the reason for the request does meet statutory and administrative rule requirements but is not supported by adequate factual information, the Department will request further information or conduct its own investigation of the matter.

(C) If the Department determines that a fire service professional or instructor may have engaged in discretionary disqualifying misconduct described in subsection (4), the case may be presented to the Board, through the Fire Policy Committee.

(D) If the Department determines that a fire service professional or instructor may have engaged in discretionary disqualifying misconduct, the Department will seek input from the affected fire service professional or instructor, allowing him or her to provide, in writing, information for the Fire Policy Committee and Board's review.

(d) Policy Committee and Board Review: The Fire Policy Committee and the Board may consider mitigating and aggravating circumstances in making a decision to deny or revoke certification based on discretionary disqualifying misconduct, including the following:

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

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

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

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

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

(F) Whether the conduct involved domestic violence;

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

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

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

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

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

(e) Initiation of Proceedings: Upon determination that the reason for denial or revocation is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared.

(f) Contested Case Notice: The "Contested Case Notice" will be prepared in accordance with the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department will have a copy of the notice served on the fire service professional or instructor.

(g) Response Time:

(A) A party who has been served with a "Contested Case Notice of Intent to Deny Certification" has 60 days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(B) A party who has been served with a "Contested Case Notice of Intent to Revoke Certification" has 20 days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(h) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order revoking or denying certification.

(i) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Office of Administrative Hearings.

(j) Proposed Order. The assigned Administrative Law Judge will prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

(k) Exceptions and Arguments: A party must file specific written exceptions and arguments with the Department no later than 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order.

(A) The Department may extend the time within which the exceptions and arguments must be filed upon a showing of good cause.

(B) When the exceptions and arguments are filed, the party making the exceptions and arguments must serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.

(l) Final Order: A final order will be issued pursuant to OAR 137-003-0070 if a fire service professional or instructor fails to file exceptions and arguments in a timely manner.

(m) Stipulated Order Revoking Certification: The Department may enter a stipulated order revoking a fire service professional's or instructor's certification any time a fire service professional or instructor wishes to voluntarily terminate an administrative proceeding to revoke a certification, or voluntarily relinquish a certification under the terms and conditions outlined in the stipulated order.

(10) Appeal Procedure. A fire service professional or instructor, aggrieved by the findings and order of the Department may, as provided in ORS 183.480, file an appeal with the Court of Appeals from the final order of the department.

(11) Reapplication Process.

(a) Any fire service professional or instructor who has had a certification denied or revoked under section (4) of this rule for

discretionary disqualifying misconduct may subsequently become eligible to reapply for certification under the provisions of subsection (11) of this rule.

(b) Any fire service professional or instructor who has had a certification denied or revoked pursuant to section (4) of this rule may not reapply for certification until:

(A) The initial minimum period of ineligibility stated in an Order of the Department denying or revoking certification has been satisfied;

(B) A written request for an eligibility determination has been submitted to the Department;

(C) The Fire Policy Committee has recommended that a fire service professional's or instructor's eligibility to apply for fire service or instructor certification be restored and the Board has upheld the recommendation;

(D) The fire service professional or instructor is employed or utilized by a fire service agency; and

(E) All requirements for certification have been met.

(c) A request for an eligibility determination should include documentation or information that supports the fire service professional's or instructor's request for eligibility to apply for certification.

(d) In considering a request for an eligibility determination, the Fire Policy Committee and the Board may consider mitigating and aggravating circumstances.

(e) After reviewing a written request for an eligibility determination, the Board, through the Fire Policy Committee, may:

(A) Determine that the individual's eligibility to apply for certification be restored if the criteria for certification have been met; or

(B) Determine that the factors that originally resulted in denial or revocation have not been satisfactorily mitigated and the individual must remain ineligible to apply for certification.

(i) If the initial period of ineligibility for the individual was for a period less than the maximum period identified in (7) of this rule, and the Board determines that an individual must remain ineligible to apply for certification, then the individual may not reapply for certification under the provisions of this rule until after the maximum initial period of ineligibility identified in (7) of this rule has been satisfied.

(ii) If the individual has satisfied the maximum initial period of ineligibility and the Board determines that an individual must remain ineligible to apply for certification, then the individual may not submit any further requests for an eligibility determination, and the original denial or revocation remains permanent.

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

Stat. Auth.: ORS 181.640, 181.661, 181.662, 181.664 & 183.341

Stats. Implemented: ORS 181.640, 181.661, 181.662 & 181.664

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 3-2008, f. & cert. ef. 1-15-08

259-009-0072

Department Representative at Contested Case Hearing

(1) Subject to approval of the Attorney General, an officer or employee of the Department is authorized to appear on behalf of the Department in all contested case hearings conducted by the Department or Board.

(2) The Department representative may not make legal argument on behalf of the Board or Department.

(a) "Legal argument" includes arguments on:

(A) The jurisdiction of the Department to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to the Department; and

(C) The application of court precedent to the facts of the particular contested case hearing.

(b) "Legal argument" does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(A) The application to the facts to the statutes or rules directly applicable to the issues in the contested case;

(B) Comparison of prior actions of the Department in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case; and

(D) The admissibility of evidence or the correctness of procedures being followed.

(3) When the Department officer or employee represents the Board or Department, the presiding officer shall advise each representative of the manner in which objections may be made and matters

preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection. Where such objections involve legal argument, the presiding officer shall provide reasonable opportunity for the Department's officer or employee to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Auth.: ORS 181.640, 181.661, 181.662, 181.664 & 183.341

Stats. Implemented: ORS 181.640, 181.661, 181.662 & 181.664

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02

259-009-0080

Certification of Instructors

(1) The Department shall certify instructors deemed qualified to teach in any of the certified training courses.

(2) Instructors will be certified on the basis of minimum qualifications as established by the Department in areas of education, training, and experience. It shall be the continuing responsibility of the Department to see that instructors are qualified to teach.

(3) Instructors for subjects shall:

(a) Be certified or trained in the subject area they are teaching;

(b) Be certified as an NFPA Instructor 1; and

(c) Complete an instructor development course, or an equivalent course.

(4) Review and approval of instructors shall be the responsibility of the Department.

(5) Applications for instructor certification shall be submitted on an Instructor Certification Application (DPSST Form F-9F) and shall be accompanied by a detailed resume of individual qualifications.

(6) If certification is denied, the applicant shall be notified in writing and advised of the reasons for denial.

(7) Instructor certification is not required for teaching assignments in non-Department certified courses.

(8) Review of instructor certification may be initiated upon the request of an agency head, staff, or other reliable source.

(9) Instructor certification must be renewed every five (5) years or when there is a change to the standard.

(10) Instructors will be responsible for ensuring that student rosters shall be completed, indicating the actual number of hours attended by each student. Rosters shall also indicate whether each student passed or failed. Rosters shall be returned to the Department within thirty (30) calendar days of course completion; otherwise, the Department may decertify the course.

Stat. Auth.: ORS 181.640 & 181.650

Stats. Implemented: ORS 181.640 & 181.650

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 4-2005, f. & cert. ef. 5-24-05

259-009-0085

Certification of Courses and Classes

(1) The Department shall certify courses, and classes deemed adequate to effectively teach one or more approved fire subject(s) to fire service personnel.

(2) Certification shall be based on the evaluation of course curriculum or subjects for instruction.

(3) Facilities and equipment used for certified training shall be accessible to all interested and qualified individuals.

(4) The Department shall certify courses at the Content level. Courses certified at the content level require a student demonstration of acquired knowledge, skill, or ability. Agencies, organizations, or individuals requesting course certification at the content level shall submit an Application for Certification of Course (DPSST Form F-20), accompanied by clearly-defined NFPA standards for job performance requirements, curriculum, test questions or evaluation criteria, and evidence of instructor certification as provided in OAR 259-009-0080. Curriculum submitted to DPSST becomes the property of DPSST.

(5) The Department shall notify the requesting agency, organization or individual, in writing, of the denial or the granted level of course certification. If certification is granted, that notification shall be accompanied by Student Rosters.

(6) It is the responsibility of the requesting agency, organization, or individual, to:

(a) Oversee the preparation of curriculum and to insure its compliance with the requirements of the Department;

(b) Obtain a facility and instructor(s) to be used for the course, and insure their compliance with the requirement of the Department;

Chapter 259 Department of Public Safety Standards and Training

(c) Develop rules and regulations governing the operation of the facility and the conduct of the trainees;

(d) Administer the course;

(e) Maintain an accurate record of attendance; and

(f) Maintain all forms required by the Department, forwarding them within the stipulated time period.

(7) Once a course is certified, it remains certified for unlimited delivery for five years, unless there is a significant change in course content, number of hours or instructor(s); or unless it is decertified by the Department as provided in section (9) of this rule. The Department shall be notified of significant changes.

(8) All course certification shall expire on December 31st of the fifth year after the initial certification. Agencies, organizations or individuals shall request recertification to continue a course for each additional five (5) years.

(9) The Department may decertify a course whenever that course is deemed inadequate. The course may be recertified by the Department when satisfactory proof has been presented to the Department that the deficiencies have been corrected.

(10) Fire service agencies may accredit their training programs as provided in OAR 259-009-0087.

Stat. Auth.: ORS 181.640 & 181.650

Stats. Implemented: ORS 181.640 & 181.650

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 4-2005, f. & cert. ef. 5-24-05

259-009-0087

Accreditation of Fire Service Agency Training Programs

(1) The Department may accredit fire service agency training programs which meet the following requirements:

(a) The program shall be under the direction of a designated training officer.

(b) Qualified instructors shall be provided to teach the various subjects.

(c) The organizational structure of the program shall be submitted to the Department along with course outlines of subject content, instructor qualifications, and the appropriate application form for accreditation. A plan shall be included which explains how the required training hours will be provided.

(d) The training officer shall schedule and make available annually to fire service personnel the following minimum hours of acceptable education and/or training:

DISCIPLINE — HOURS PER YEAR

Fire Suppression Personnel — 60 Hours

All Other Disciplines — 12 Hours

Instructor I, II, III — 4 Hours

(e) At the conclusion or as a part of the accredited training, the training officer shall require appropriate written examination and/or task performance examination in accordance with standards and procedures adopted by the Department.

(f) Fire Service Personnel training records shall be maintained by the employing fire service agency for at least five years, after the fire service professional has left the agency, on the progress and amount of instruction completed by all fire service personnel in the fire service agency.

(g) The fire service agency shall possess at least one triple combination pumper that conforms to the minimum standards for automotive fire apparatus as outlined in the National Fire Protection Association (NFPA) Pamphlet #1901. Apparatus may be accepted by judgment of the Department when it is of a special fire suppression need, and/or will adequately meet the training needs of the proposed program.

(h) A written accreditation agreement shall be prepared by the Department, defining the specific requirements of accreditation, including the specific training the fire service agency is accredited to deliver. The agreement shall be signed by the Department's designee; the Agency head of the fire service agency; City Manager or Chairman of the Rural Fire Protection District Board; and the training officer. The accreditation agreement must be reviewed every three (3) years.

(A) The review will consist of a written questionnaire which must be verified by the Fire Chief.

(B) An on-sight review may occur if there is a change in the accreditation agreement.

(C) The Agency head shall agree as a part of the accreditation agreement to allow, at any time, access by Department examiners to

the fire service agency's personnel training records to verify training received by fire service agency personnel, and to monitor testing processes.

(2) The Agency head, on behalf of the fire service agency, shall have the right to appeal to the Department any proposed termination of the agreement.

Stat. Auth.: ORS 181.640 & 181.650

Stats. Implemented: ORS 181.640 & 181.650

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 8-2004, f. & cert. ef. 4-23-04

259-009-0090

Training Records

(1) Upon receipt by the Department of a Personnel Action Form (DPSST Form PAF-1), properly identifying a fire service professional, the Department shall initiate a file for that individual and record completion of approved training, as well as other personnel information, if properly documented.

(2) Upon display of proper identification, an agency head, or authorized representative, may review their employee's file as maintained by the Department. Proper identification shall also be required of individuals interested in reviewing their own file.

(3) If an agency or employee requests a copy of their training record the request must be made in writing.

(4) Review and/or release of non-public information under Oregon law to other than the individual whose file is the subject of the information request or to the employing public or private fire safety agency shall only be permitted by the Department upon advisement by the Attorney General, by court order, or with a signed consent from the individual whose file is the subject of the information request.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02

259-009-0100

Miscellaneous Activities of the Board or Department

(1) The Board or Department may make or encourage studies of any aspect of fire administration, including the stimulation of research by public and private agencies which shall be designed to improve the Fire Protection System.

(2) The Board or Department may cooperate and consult with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, community colleges, and other institutions concerning the development of fire safety training schools and programs or courses of instruction.

(3) The Board or Department may cooperate and consult with official bodies or individuals charged by law with the responsibility for fire selection and training standards in other states.

(4) The Board or Department may periodically publish or recommend that other governmental agencies publish curricula, manuals, lesson plans, brochures, newsletters, and other materials to aid departments in achieving the objectives of the Act.

(5) The Department may direct, operate, or sponsor training schools and set reasonable rules and regulations for the operation and use by trainees.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: BPSST 22-2002, f. & cert. ef. 11-18-02

DIVISION 12

OREGON PUBLIC SAFETY ACADEMY

259-012-0005

Attendance

(1) The Oregon Public Safety Academy is open to all eligible personnel upon application from their employing agencies. All persons attending the courses may live in the dormitories provided, or, with the permission of their department, they may commute to classes. Reasonable fees may be charged to cover operating costs of the Academy for those attending courses that are not mandatory, and for persons not defined as corrections, parole and probation, emergency medical dispatchers, telecommunicators or police officers under ORS 181.610. Additionally, fees may be charged to an agency under the Act if they do not adhere to minimum standards as defined in OAR 259-008-0010. Application for Training (BPSST Form F-5) must be used to apply for

Chapter 259 Department of Public Safety Standards and Training

Mandated courses. Other courses presented at the Oregon Public Safety Academy may be announced through mailed course announcements with response required prior to established deadlines.

(2) Students must obtain permission from their employing agency before attending any optional classes offered at the Academy.

(3) Admission to the Oregon Public Safety Academy may be denied to any person who does not meet the minimum employment standards established by OAR 259-008-0010.

(4) Selection criteria for Academy training courses sponsored by the Department will be as follows:

(a) Mandated Basic Training:

(A) For mandated basic training, first priority for acceptance will be granted to public safety personnel identified under the mandatory provisions of ORS 181.610, 181.640, 181.644, 181.652, 181.653, and 181.665;

(B) Second priority will be granted to persons from public or private safety agencies who are not identified under the mandatory provisions of ORS 181.610, 181.640, 181.644, 181.652, 181.653, and 181.665;

(C) Third priority will be granted to persons from other public or non-public agencies or organizations. These decisions will be made after reviewing course content, candidates' job assignments, and following established Department policy.

(b) Supervisory and Middle Management Training:

(A) First priority for acceptance into the mandated supervisory and middle management courses will be granted to public safety personnel identified under the mandatory provisions of ORS 181.610, 181.640, 181.644, 181.652, 181.653, and 181.665. These persons must be designated as supervisors or middle managers by the assigning officials;

(B) Second priority will be granted to designated supervisors or middle managers from other public or private safety agencies;

(C) Third priority will be granted to persons from agencies which come under the mandatory provisions of ORS 181.610, 181.640, 181.644, 181.652, 181.653, and 181.665 and are not designated as supervisors or middle managers;

(D) Fourth priority will be granted to persons from other public or private safety agencies who are not designated as supervisors or middle managers;

(E) Fifth priority will be granted to persons from other public or non-public agencies or organizations. These decisions will be made after reviewing candidates' job assignments and following established Department policy.

(c) Executive Level Training:

(A) First priority for acceptance into executive level courses will be granted to command officers identified under the mandatory provisions of ORS 181.610, 181.640, 181.644, 181.652, 181.653, and 181.665;

(B) Second priority will be granted to command officers from other public or private safety agencies;

(C) Third priority will be granted to persons identified under the mandatory provisions of ORS 181.610, 181.640, 181.644, 181.652, 181.653, and 181.665 and are not command officers;

(D) Fourth priority will be granted to persons from other public or private safety agencies who are not command officers;

(E) Fifth priority will be granted to persons from other public or non-public agencies or organizations. These decisions will be made after reviewing candidates' job assignments and following established Department policy.

(d) Advanced and Specialized Training:

(A) First priority for acceptance into advanced and specialized courses will be granted to public safety personnel identified under the mandatory provisions of ORS 181.610, 181.640, 181.644, 181.652, 181.653, and 181.665, except as noted in paragraph (D) of this subsection;

(B) Second priority will be granted to persons from other public or private safety agencies;

(C) Third priority will be granted to persons from other public or non-public agencies or organizations. These decisions will be made after reviewing candidates' job assignments and following established Department policy;

(D) Acceptance criteria for certain specialized courses will vary from these listed priorities due to the specific nature of the courses, or

special entrance criteria established by the Department or a co-sponsoring organization or agency.

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

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; DPSST 8-2006(Temp), f. & cert. ef. 6-9-06 thru 12-1-06; DPSST 17-2006, f. & cert. ef. 11-20-06

259-012-0010

Standards of Conduct

(1) All students must report to the Academy at the time designated in the course announcement or the Department's letter accepting their attendance to a specific course, unless prior arrangements have been made with Academy staff.

(2) All students must adhere to the Department's rules and regulations governing student conduct. The student rules and regulations will be made available to:

(a) All students during initial orientation; and

(b) The public through electronic transmission or internet access.

(3) Any person residing at the Academy or attending specialized or advanced courses is prohibited from possessing weapons, including firearms and chemical agents, in the dormitory sleeping areas.

(4) In addition to these rules, all persons attending classes at the Academy shall be held accountable to the provisions of the Criminal Justice Code of Ethics or equivalent discipline specific Code of Ethics and the current Student Rules and Regulations

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 6-2001, f. & cert. ef. 8-22-01; DPSST 8-2006(Temp), f. & cert. ef. 6-9-06 thru 12-1-06; DPSST 17-2006, f. & cert. ef. 11-20-06

259-012-0035

Penalties

(1) A person attending any course as a student or other participant, or a person residing at the Academy for any purpose, is subject to the rules which have been promulgated by the Department. The rules will be posted in a prominent location at the Academy. All persons attending the Academy will be expected to be knowledgeable of and to conform their conduct to the standards set forth in the rules.

(2) Failure to comply with the rules may result in the person being dismissed from the Academy, suspended from participating in Academy activities, or any other disciplinary action deemed appropriate. A student dismissed from the Academy or suspended from Academy participation for conduct or behavior in violation of the rules may not be given training credit or credit for completion of the course in which that student was enrolled. Any decision to withhold credit will be subject to Department approval.

(3) Any alleged violation of these rules, wherein a formal written report is made, shall be communicated to the student's department administrator by the DPSST staff. All disciplinary actions shall be made in accordance with the Oregon Public Safety Academy Student Rules and Regulations.

(4) Dismissal, suspension, or other disciplinary action may be ordered by the Director, or any DPSST staff delegated that authority.

(a) If a student is to be dismissed from the Academy, the student may request a meeting with the Director and present written evidence on his/her behalf.

(b) If the Director, or designee, upholds the dismissal, the student's employer may appeal the Director's decision to the Board within 30 days of the dismissal. The appeal must be in writing and state the employer's reason for disagreeing with the dismissal.

(A) If the student's employer does not appeal the student's dismissal within 30 days, the dismissal is final.

(B) If the Board upholds the student's dismissal, the dismissal is final.

(c) Eligibility to return to the Academy following a final dismissal is subject to the provisions of this rule. This applies whether the Board upholds a dismissal or an employer fails to appeal a student's dismissal within 30 days.

(d) If the Board upholds the Department's dismissal, or an employer fails to appeal a student's dismissal within 30 days, any student coursework previously completed in a Basic Course will not be considered to have been successfully completed. If the student is determined to be eligible to return to the Academy, the entire course must be retaken and successfully completed for credit toward certification.

(e) If the Board overturns the Department's dismissal, the student will be eligible to return to the Academy to attend a subsequent Academy class if the employer submits a new Application for Training. If the Department determines training effectiveness would not be compromised, the student may be allowed to complete only the remaining coursework not previously completed due to the dismissal.

(f) Following any dismissal from the Academy, the Department will review a student's file and all materials relating to the dismissal to determine whether the student's conduct should be reviewed by the appropriate Policy Committee and Board for possible violation of the minimum standards for public safety officers. The provisions of OAR 259-008-0070 (Denial and Revocation) will apply.

(A) If Policy Committee and Board review is required, the student will remain ineligible to return to the Academy until the Board makes a determination regarding denial or revocation of a student's certification.

(B) A student will remain ineligible to return to the Academy pending any contested case proceeding initiated under the provisions of OAR 259-008-0070.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; DPSST 4-2004, f. & cert. ef. 4-23-04; DPSST 8-2006(Temp), f. & cert. ef. 6-9-06 thru 12-1-06; DPSST 17-2006, f. & cert. ef. 11-20-06; DPSST 5-2007(Temp), f. & cert. ef. 2-15-07 thru 8-3-07; DPSST 8-2007, f. & cert. ef. 7-30-07

DIVISION 13

CRIMINAL RECORDS CHECK RULES

259-013-0000

Statement of Purpose and Statutory Authority

(1) Purpose. The purpose of these rules is to establish the reasonable screening procedures for:

- (a) All public safety professionals;
- (b) Instructors;
- (c) Any individual who occupies a position requiring a license or certification or is under investigation by the Department; or
- (d) Reissuance of a license or certificate that is issued by the Department.

(2) Authority. These rules are authorized under ORS 181.534 and 181.612.

(3) When Rules Apply. These rules are to be applied when evaluating the criminal history of a subject individual identified in (1) of this rule. The fact that a subject individual is approved does not guarantee licensure or certification.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0005

Definitions

As used in OAR chapter 259, division 013, unless the context of the rule requires otherwise, the following definitions apply:

(1) "Approved" means that a criminal records check has been completed on an individual and the Department has not identified any criminal record that would make the individual ineligible for licensure or certification.

(2) "Authorized Designee" means a person who is authorized by the Department to receive, review and process criminal history information.

(3) "Conviction" means that a person was convicted in a court of law. Entering a plea of "guilty" or "no contest" is also considered a conviction for the purpose of these rules unless a subsequent court decision has dismissed the charges. An expunged juvenile or adult record may be considered a conviction under these rules for purposes of eligibility for licensure or certification.

(4) "Criminal History Information" means criminal justice records, fingerprints, court records, sexual offender registration records, warrants, DMV information, information provided on a Department form, and any other information obtained by or provided to the Department. "Criminal history information" may include violations or infractions for purposes of eligibility for licensure or certification.

(5) "Criminal Records Check" means the Oregon Criminal Records Check and, when required, a National Criminal Records Check or a State-Specific Criminal Records Check, and the processes and procedures required by these rules.

(6) "Denied" means a criminal records check has been completed on an individual and the individual is ineligible to obtain licensure or certification.

(7) "Department" means the Oregon Department of Public Safety Standards and Training.

(8) "National Criminal Records Check" means obtaining and reviewing criminal records nationwide or from states or jurisdictions other than Oregon. This information may be obtained from the Federal Bureau of Investigation through the use of fingerprint cards and from other criminal information resources.

(9) "Oregon Criminal Records Check" means obtaining and reviewing information from the Oregon State Police's Law Enforcement Data System (LEDS). The Oregon Criminal Records Check may also include, but is not limited to: Oregon Justice Information Network (OJIN), Oregon Department of Corrections records, Motor Vehicles Division, local or regional criminal records information systems, or other official law enforcement agency or court records in Oregon.

(10) "Potentially Disqualifying Crime" means a crime listed or described in OAR 259-013-0260.

(11) "Records Information" includes criminal justice records, fingerprints, court records, sexual offender registration records, warrants, arrests, DMV information, information provided on the Department's criminal records check forms, and any other information obtained by or provided to the Department for the purpose of conducting a fitness determination.

(12) "State-Specific Criminal Records Check" means obtaining and reviewing information from law enforcement agencies, courts or other criminal records information resources located in a state or jurisdiction outside Oregon.

(13) "Subject individual" means a person for whom a criminal records check is required pursuant to these rules.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0220

Individuals Subject to Criminal Records Checks

The Department may require the fingerprints of:

- (1) A fire service professional;
- (2) A public safety professional or instructor;
- (3) A private security professional;
- (4) A Private Investigator;
- (5) A Certified Retired Police Officer applicant;
- (6) A Polygraph Intern or General License applicant;
- (7) A candidate for election to the office of Sheriff.

Stat. Auth.: ORS 181.534, 181.612 & 206.015

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0230

Criminal Records Check Required

(1) Who Conducts Check.

(a) The Department may request that the Department of State Police conduct a criminal records check on a subject individual. If a nationwide criminal records check of a subject individual is necessary, the Department may request that the Department of State Police conduct the check, including fingerprint identification, through the Federal Bureau of Investigation.

(b) The Department may conduct criminal records checks on subject individuals through the Law Enforcement Data System maintained by the Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police.

(2) When Check is Required (New Checks and Re-checks). A subject individual is required to have a check in the following circumstances:

(a) When a public safety professional applies for, or is employed by, a law enforcement agency, the public safety professional or applicant must submit to a criminal records check as required by OAR 259-008-0010.

(b) When a person applies for a license to conduct polygraphs, the polygrapher, or applicant, must submit to a criminal records check as required by the provisions of OAR 259-0020-0010 or 259-0020-0015.

(c) When a person applies for certification as a certified retired officer, the applicant must submit to a criminal records check as required by the provisions of OAR 259-008-0068.

(d) When a person is elected or appointed to the Office of Sheriff, the applicant must submit to a criminal records check as required by the provisions of OAR 259-008-0075.

(e) When a person applies for a private security certificate or license, the applicant must submit to a criminal records check as required by the provisions of OAR 259-060-0120.

(f) When a person applies for a private investigator license, the applicant must submit to a criminal records check as required by the provisions of OAR 259-061-0070.

(g) When a person is an instructor for the Department who is not certified as a public safety professional.

(h) When a check is required by federal or state laws or regulations, other rules adopted by the Department, or by contract or written agreement with the Department.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0235

Refusal to Consent to a Criminal records Check

If any subject individual refuses to consent to a criminal records check, or refuses to be fingerprinted when required, the Department may revoke or deny any application, license or certificate issued by the Department.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0240

Oregon Criminal Records Check Process

(1) Processing.

(a) The Department will obtain criminal records information from the Oregon State Police Law Enforcement Data System and from other sources of criminal, judicial and motor vehicle information.

(b) The Department will authorize one or more designees to receive and evaluate Oregon criminal records information from the Oregon State Police as allowed by applicable statutes.

(c) A subject individual may be required to obtain and provide additional criminal, judicial or other background information to the Department or its authorized designee.

(d) Criminal records information obtained from the Law Enforcement Data System must be handled in accordance with applicable Oregon State Police requirements in ORS Chapter 181 and OAR chapter 257, division 15.

(2) Additional Information Required. The Department may require additional information from a subject individual in order to conduct an Oregon Criminal Record Check. The information may include, but is not limited to, proof of identity, residential history, names used while living at each residence, or additional criminal, judicial, or other background information.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0250

National Criminal Records Check Process

(1) National Criminal Records Check. In addition to an Oregon criminal records check (OAR 259-013-0250), the Department may require a national criminal records check consistent with the requirements for licensure or certification.

(2) Processing. The individual must complete and submit fingerprint card(s) when requested by the Department.

(3) Additional Information Required. In order to conduct a national check, the Department may require additional information such as, but not limited to, proof of identity, residential history, names used while living at each residence, or additional criminal, judicial, or other background information.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0260

Potentially Disqualifying Crimes

A conviction of any of the following crimes is potentially disqualifying. The lists include offenses that are crimes and may include offenses that are classified as violations or infractions for purposes of eligibility for licensure or certification. (See ORS 161.505 through 161.565).

(1) Any crime or offense listed in OAR 259-008-0070;

(2) Any crime listed in OAR 259-008-0070;

(3) Any crime listed in OAR 259-060-0020;

(4) Any crime listed in OAR 259-061-0040.

(5) Any federal crime.

(6) Any unclassified felony defined in Oregon Revised Statutes not listed elsewhere in this rule.

(7) Any other felony in Oregon's or any other jurisdiction's statutes not listed elsewhere in this rule.

(8) Any crime or offense in any other jurisdiction that is the substantial equivalent of any of the Oregon crimes identified in this section or as determined by an authorized designee of the Department.

(9) Any crime adopted by the Legislature that is the substantial equivalent of any of the crimes listed in this section.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0270

Record Keeping, Confidentiality

(1) LEDS Reports.

(a) Confidentiality. All LEDS reports are confidential and must be maintained by the authorized designee in accordance with applicable Oregon State Police requirements in ORS Chapter 181 and the rules adopted pursuant thereto. (NOTE: See OAR chapter 257, division 15).

(A) Authorized Designee Access. LEDS reports are confidential and may only be shared with another authorized designee if there is a need to know consistent with these rules.

(B) Subject Individual Access.

(i) The subject individual must be allowed to inspect the LEDS report if the subject individual requests to see it. The LEDS report, and photocopies of the LEDS report, must not be given to the subject individual, with the following exception:

(ii) If a fingerprint-based criminal records check was conducted on the subject individual, then the individual shall not only be permitted to inspect the individual's own state and national criminal offender records in the custody of the Department, but if requested by the individual, be provided with a copy of those same records.

(b) Retention. LEDS reports must be retained and destroyed in accordance with records retention schedules published by Oregon State Archives.

(2) National (FBI) Information.

(a) Confidentiality and Dissemination.

(A) National criminal information provided by the FBI is confidential and may not be disseminated by the Department, with the following exception:

(B) If a fingerprint-based criminal records check was conducted on the subject individual, then the subject individual shall not only be permitted to inspect the individual's own state and national criminal offender records in the custody of the Department, but if requested by the subject individual, be provided with a copy of those same records.

(b) Retention. FBI reports must be retained and destroyed in accordance with records retention schedules published by Oregon State Archives and in accordance with federal law.

(3) Fingerprint Cards:

(a) The Federal Bureau of Investigation (FBI) must return or destroy the fingerprint cards used to conduct the criminal records

Chapter 259 Department of Public Safety Standards and Training

check and may not keep any record of the fingerprints. If the FBI policy authorizing return or destruction of the fingerprint cards is changed, the Department of State Police shall cease to send the cards to the FBI but shall continue to process the information through other available resources.

(b) If the FBI returns the fingerprint cards to the Department of State Police, the department must destroy the fingerprint cards and shall retain no facsimiles or other material from which a fingerprint can be reproduced.

(c) The Department of State Police may retain or destroy fingerprint cards after a criminal records check is completed and the results of the criminal records check is provided to the Department in accordance with rules adopted and procedures established by the Department of State Police.

(d) If only a state criminal records check is conducted, the Department of State Police may retain or destroy the fingerprint cards after the criminal records check is completed and the results of the criminal records check are provided to the Department in accordance with rules adopted and procedures established by the Department of State Police.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0280

Immunity from Liability

The Department and its authorized designees have immunity from any civil liability that might otherwise be incurred or imposed for determining, in accordance with ORS 181.612 that a subject may not obtain or maintain a license or certificate issued by the department, or be employed. The Department or its employee acting within the course and scope of employment who in good faith complies with 181.534 is not liable for employment-related decisions based on the fitness determination. No Department, or an employee of the state, the Department, a business or an organization acting within the course and scope of employment, is liable for defamation, invasion of privacy, negligence or any other civil claim in connection with the lawful dissemination of information lawfully obtained under 181.534.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0290

Appeal Process

(1) If an individual has been convicted of a potentially disqualifying crime, the Department will proceed in accordance with the relevant process for denial or revocation identified in either OAR 259-008-0070, 259-009-0070, 259-020-0031, 259-060-0300 or 259-061-0040.

(2) An individual may appeal a determination of the Department in accordance with the applicable rules identified in subsection (1) of this section.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

259-013-0300

Fees

Fees may not exceed the actual cost of acquiring and furnishing criminal offender information.

Stat. Auth.: ORS 181.534 & 181.612

Stats. Implemented: ORS 181.612

Hist.: DPSST 17-2008, f. & cert. ef. 10-15-08

DIVISION 15

REIMBURSEMENT

259-015-0000

Eligibility for Reimbursement

(1) Participation in the Department's reimbursement program is limited to corrections or police officers as defined in the Public Safety Standards and Training Act (ORS 181.610). Temporary or special appointees may not participate. Reimbursement programs shall not apply to any state agencies or nongovernmental organizations.

(2) To be eligible for reimbursement, a law enforcement unit must adhere to the minimum standards for employment and training as defined in these rules.

(a) Personnel and training records maintained by the law enforcement unit must document compliance with these minimum standards.

(b) The law enforcement unit must complete and forward to the Department all necessary forms and reports requested by the Department.

(c) Corrections or police officers participating in a training course which qualifies for reimbursement shall not be required to report for duty with their employing department during the scheduled duration of the course unless an emergency exists or in normal response to a subpoena.

(3) A department employing a police or corrections officer who has successfully completed a course certified or presented by the Department, and for whom reimbursement has been legally claimed or paid, may not again claim reimbursement for repetition of the same course regardless of transfer or re-employment by another department, unless upon written application, the Department has granted prior and specific approval.

(4) If, in the judgment of the Department, a law enforcement unit has failed to adhere to the minimum standards for employment and training, the Department shall notify the law enforcement unit of said judgment and of its probable ineligibility for reimbursement and shall also request compliance. In the event that the law enforcement unit fails to comply, the Department may afford the concerned law enforcement unit's official representatives the opportunity to appear before it and present whatever arguments the law enforcement unit may deem appropriate in support of the claim. If the Department finds that the standards have not been adhered to, it will not only reject all claims for reimbursement, but will charge for training or other services normally offered free to law enforcement units. A law enforcement unit may be reinstated in the program and again become eligible for reimbursement and other benefits when, in the opinion of the Department, it has demonstrated that it will adhere to the prescribed standards. The period during which the law enforcement unit shall remain ineligible for reimbursement or other benefits shall be at the discretion of the Department.

Stat. Auth.: ORS 181.655

Stats. Implemented: ORS 181.655

Hist.: PS 12, f. & ef. 12-19-77; Renumbered from 259-010-0095, PS 1-1983, f. & ef. 12-15-83; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

259-015-0005

Priorities and Course Requirements for Reimbursement

(1) Reimbursements for successful completion of courses shall be paid in the following priorities, depending upon funds available:

- (a) Basic courses;
- (b) Supervisory courses;
- (c) Middle Management courses;
- (d) Career Officer Development;
- (e) Executive courses;
- (f) Specialized courses.

(2) Courses qualifying for reimbursement must be certified in accordance with Department rules. Applications for course certification must be submitted at least 30 days prior to the beginning of the course.

(3) Schedules of allowable reimbursement will be included in announcements of course certification, individual course announcements, and otherwise published by the Department as needed or required.

(4) Upon request, the Department will furnish estimates and forecasts of reimbursement schedules if needed by law enforcement units for planning and budget preparations.

Stat. Auth.: ORS 181.655

Stats. Implemented: ORS 181.655

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; Renumbered from 259-010-0100, PS 1-1983, f. & ef. 12-15-83; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

259-015-0010

Claims for Reimbursement

(1) A law enforcement unit shall complete and submit each claim for reimbursement on a Claim for Reimbursement (**BPSST Form F-18**) no later than 21 days after completion of a course.

(2) Individual claims must be submitted for each eligible law enforcement officer for whom the law enforcement unit seeks reimbursement.

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

Stat. Auth.: ORS 181.655

Stats. Implemented: ORS 181.655

Hist.: PS 12, f. & ef. 12-19-77; Renumbered from 259-010-0105, PS 1-1983, f. & ef. 12-15-83; PS 2-1995, f. & cert. ef. 9-27-95; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

DIVISION 20

POLYGRAPH EXAMINERS LICENSING RULES

259-020-0000

Objectives

The objectives of the Board's polygraph licensing rules are: To regulate all persons who purport to be able to detect deception or to verify the truth of statements through the use of instrumentation or mechanical devices, including but not limited to lie detectors, polygraphs, and deceptographs.

(1) By establishing minimum standards for applicants for polygraph examiner's licenses.

(2) By establishing minimum qualifications for licensed polygraph examiners, including appropriate examinations to measure competency of applicants, and reexamination of the licensee should the Department deem a reexamination to be necessary.

(3) By enforcement of all provisions of the Polygraph Examiners Act.

Stat. Auth.: ORS 703.230

Stats. Implemented: ORS 703.230

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1983, f. & ef. 12-15-83; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 9-2001, f. & cert. ef. 9-19-01

259-020-0005

Definitions

(1) "Board" means the Board on Public Safety Standards and Training.

(2) "Completed Examination" means an examination in which charts are recorded.

(3) "Department" means the Department of Public Safety Standards and Training.

(4) "Director" means the director of the Department.

(5) "Person" means any individual, firm, association, partnership, or corporation.

(6) "The Act" means the Polygraph Examiners Act (ORS Chapter 703).

Stat. Auth.: ORS 703.230

Stats. Implemented: ORS 703.230

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1983, f. & ef. 12-15-83; PS 3-1987, f. & ef. 10-26-87; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 7-1999, f. & cert. ef. 7-29-99; BPSST 9-2001, f. & cert. ef. 9-19-01; DPSST 1-2003, f. & cert. ef. 1-21-03

259-020-0010

Minimum Standards for a Polygraph Examiner Trainee License

(1) Any applicant for a license as a polygraph examiner trainee shall:

(a) Have graduated from a polygraph examiner's course approved by the Department;

(b) Be at least 18 years of age;

(c) Be a citizen of the United States;

(d) Not have demonstrated, in the preceding 10 years, a course of behavior that indicates a high degree of probability that the applicant will be unlikely to perform the duties of a polygraph examiner in a manner that would serve the interests of the public. When the Department refuses to issue a license based upon an applicant's failure to meet the requirements of this section, the Department shall follow the procedures set forth in OAR 259-020-0030.

(e) If previously convicted of a criminal offense, provide information, as required by the Department, relating to the circumstances of the conviction. ORS 670.280 is applicable when the Department considers information provided under this paragraph.

(f) Be fingerprinted and submit two (2) completed fingerprint cards to the Department for subsequent submission by the Department to the Oregon State Police, Identification Services Section. Appropriate fees shall accompany the applicant's fingerprints when submitted to the Department. Said fees are to pay the costs of the fingerprint check through the Federal Bureau of Investigation.

(A) Currently employed corrections officers, parole and probation officers, or police officers as defined in ORS 181.610, whose fingerprints are on file in accordance with OAR 259-008-0010(3), shall be exempt from the fingerprinting requirement for polygraph examiners as prescribed in this rule.

(B) Currently employed state police officers appointed pursuant to ORS 181.260 whose fingerprints are on file in accordance with OAR 259-008-0010(3), shall also be exempt from the fingerprinting requirement for polygraph examiners as prescribed in this rule.

(g) Submit a fully completed Application for Polygraph Examiner's License (DPSST Form F-203) as prescribed by OAR 259-020-0060, accompanied by documentation of qualifications as may be required by the Department.

(h) Submit to the Department appropriate fees as prescribed by OAR 259-020-0035.

(2) The Department prescribed requirements for internship of any person who is licensed as a trainee under this rule are:

(a) Periodic consultation with licensed general polygraph examiners of the trainee's own choice is appropriate;

(b) A total of 20 examinations of the first 200 examinations conducted shall be reviewed by a licensed general polygraph examiner. The following format of these reviews is mandatory:

(A) 1st series — 5 examinations reviewed of the first 20 conducted;

(B) 2nd series — 5 examinations reviewed of the second 30 conducted;

(C) 3rd series — 5 examinations reviewed of the third 50 conducted;

(D) 4th series — 5 examinations reviewed of the last 100 conducted.

(E) During each review, the general polygraph examiner shall complete a Polygraph Review Critique (DPSST Form F-203a) on each case reviewed. The original critique shall be forwarded to the Department to be included in the trainee's individual file. One copy of the form shall be retained by the reviewer, and one copy shall be retained by the trainee. These reviews shall be completed within 30 days of the completion of each of the four (4) series of examinations shown above and forwarded to the Department.

(F) At least two (2) review series shall be completed during personal interviews with a general polygraph examiner. However, if time and distance are a distinct problem, up to two of the review series may be completed by mail. These review procedures cannot be interpreted as detracting from the trainee examiner's ability or expertise, but shall be considered as legitimate, professional consultation.

(c) When participating in this prescribed course of study, trainees may administer specific issue examinations. If the trainee conducts a test which is to be offered as evidence in a court of law, the trainee shall seek and utilize the assistance of a general polygraph examiner during the administration of the case and shall have that general polygraph examiner available for continued consultation, including joint court appearances, if necessary. Each trainee should obtain legal advice concerning all questions relating to admissibility of polygraph examination evidence.

(d) Every trainee must maintain basic records of examinations conducted. A numerical log or ledger (beginning with #1) shall provide a brief record of the name of the person examined, date, time, type of examination, and results, as well as other information the trainee examiner considers pertinent. Folder or envelope "case" files containing all available test information, including notes, questions, charts, reports, and correspondence, shall be maintained for a minimum of five years unless State Archivist rules require longer maintenance.

(e) A person may hold a license as a trainee for no more than two years. An extension of the two-year period granted for the trainee license holders may be granted for good cause. If the applicant requests an extension of time to hold the trainee license, the Department may grant an extension to the date of the next regularly scheduled Polygraph Licensing Advisory Committee meeting. The applicant will be scheduled to appear at the next committee meeting. The applicant must

provide his/her request/justification for the extension, polygraph log, and ten of the last polygraph reports and charts performed by the trainee. If just cause is presented, the Polygraph Licensing Advisory Committee may recommend to the Department an extension.

(f) Trainees must clearly indicate their trainee status on all letterhead, business cards, advertising, signage, and any other type of written material that describes a polygraph examination or review of a polygraph examination.

(3) A trainee shall not conduct more than five (5) completed examinations, of any type, in any one calendar day. A completed examination shall be an examination as defined in OAR 259-020-0005(2).

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

Stat. Auth.: ORS 703.230

Stats. Implemented: ORS 703.230

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 3-1987, f. & ef. 10-26-87; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 7-1999, f. & cert. ef. 7-29-99; BPSST 10-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 9-2001, f. & cert. ef. 9-19-01; BPSST 14-2002, f. & cert. ef. 7-1-02; DPSST 1-2003, f. & cert. ef. 1-21-03

259-020-0015

Minimum Standards for a Polygraph Examiner

(1) Any applicant for a license as a general polygraph examiner shall:

- (a) Be at least 18 years of age;
- (b) Be a citizen of the United States;

(c) Not have demonstrated, in the preceding 10 years, a course of behavior that indicates a high degree of probability that the applicant will be unlikely to perform the duties of a polygraph examiner in a manner that would serve the interests of the public. When the Department refuses to issue a license based upon an applicant's failure to meet the requirements of subsection (c) of this section, the Department shall follow the procedures set forth in OAR 259-020-0030;

(d) If previously convicted for a criminal offense, provide information, as required by the Department, relating to the circumstances of the conviction. ORS 670.280 is applicable when the Department considers information provided under this paragraph;

(e) Be fingerprinted and submit two (2) completed fingerprint cards to the Department for subsequent submission by the Department to the Oregon State Police, Identification Services Section. Appropriate fees shall accompany the applicant's fingerprints when submitted to the Department. Said fees are to pay costs of the fingerprint check through the Federal Bureau of Investigation. No General License shall be issued until the Department has received fingerprint clearance from the Oregon State Police Identification Services Section. Currently employed corrections officers, parole and probation officers, or police officers, as defined in ORS 181.610, whose fingerprints are on file in accordance with OAR 259-008-0010(3), shall be exempt from the fingerprinting requirement for polygraph examiners as prescribed in this rule. Currently employed state police officers appointed pursuant to ORS 181.260, whose fingerprints are on file in accordance with OAR 259-008-0010(3), shall also be exempt from the fingerprinting requirement for polygraph examiners as prescribed in this rule.

(f) Have received a baccalaureate degree from an accredited college or university; or, in lieu thereof, be a graduate of an accredited high school and have at least five years of active investigative experience before the date of the application.

(A) Active investigative experience is acquired through full-time employment as an investigator. An investigator is a person whose primary assigned duty is the investigation of actual or suspected violations of law, either criminal or civil.

(B) Administering polygraph examinations will satisfy the investigative experience requirement of this section.

(C) The Department may, upon application of an individual polygraph examiner, accept the examiner's professional experience as being equal in professional value to the five years of active investigative experience required by this section.

(g) Have graduated from a polygraph examiner's course approved by the Department and have completed at least 200 examinations, or have worked as a polygraph examiner for a period of five years for a governmental agency within the State of Oregon and have completed 200 examinations.

(h) Have successfully completed an examination conducted by the Department in consultation with the Advisory Committee as defined in OAR 259-020-0055, to determine competency to act as a polygraph examiner. The Department in consultation with the Advisory Committee shall prescribe the manner and contents of any examination conducted by the Department under provisions of the Act.

(i) Submit a fully-completed Application for Polygraph Examiner's License (DPSST Form F-203) as prescribed by OAR 259-020-0060, accompanied by documentation of qualifications as may be required by the Department.

(j) Submit to the Department appropriate fees as prescribed by OAR 259-020-0035.

(2) Any person who has held a trainee license for longer than 12 months and who has completed the 200 exams required under OAR 259-020-0015(1)(g) prior to the effective date of this rule must take the examination described in OAR 259-020-0015(1)(h) within 12 months of completing the required exams.

(3) The following govern applicants who fail to pass the oral or written part of the examination described in OAR 259-020-0015(1)(h):

(a) The Department in consultation with the advisory committee may prescribe requirements for the internship of an applicant who fails the first or second examination.

(b) The Department in consultation with the advisory committee may prescribe requirements for the internship of an applicant who fails the first or second examination and who resides in a state other than Oregon and desires to accept a trainee license even though the applicant could not comply with the trainee license requirements set for in-state residents. The requirements for the internship must be of equal professional value as those requirements set for in-state trainees.

(c) The Department shall suspend an applicant's trainee license if the applicant fails the third examination. The applicant may submit a new application for a general license only after retaking and successfully completing a polygraph examiner's course approved by the Department.

(d) Applicants who have already taken the examination and failed it prior to the effective date of this rule are allowed two additional attempts to take and pass the examination regardless of the number of previous attempts.

(4) The Director, acting on the written recommendation of the Polygraph Examiners Licensing Advisory Committee, may require a licensed general polygraph examiner to appear for reexamination as directed. Failure of the licensee to comply with the directive to appear for reexamination shall result in the suspension of the license by the Department.

(5) Every examiner shall maintain basic records of examinations conducted pursuant to OAR 259-020-0030(1)(f)(A)(vi). A numerical log or ledger (beginning with #1) shall provide a brief record of the name of the person examined, date, time, type of examination, and results, as well as other information the examiner considers pertinent. Folder or envelope "case" files containing all available test information, including notes, questions, charts, reports, and correspondence, shall be maintained for a minimum of five years unless State Archivist rules require longer maintenance.

(6) An examiner shall not conduct more than five (5) completed examinations, of any type, in any one calendar day. A completed examination shall be an examination as defined in OAR 259-020-0005(2).

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

Stat. Auth.: ORS 703.230

Stats. Implemented: ORS 703.230

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 3-1987, f. & ef. 10-26-87; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 7-1999, f. & cert. ef. 7-29-99; BPSST 10-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 9-2001, f. & cert. ef. 9-19-01; BPSST 14-2002, f. & cert. ef. 7-1-02; DPSST 1-2003, f. & cert. ef. 1-21-03

259-020-0020

Special Licenses

(1) The Department may license a person who is not a resident of this state as a polygraph examiner in accordance with the Act. However, any such person shall include with the application for a license or renewal thereof an irrevocable written consent permitting the Director to act as an agent for the service of all legal process in this state.

In any action in a court of competent jurisdiction in this state, service of process may be made upon a polygraph examiner who does not reside in this state by mailing two copies of the process to the Director. The Director shall retain one copy of the process in the records and immediately send, by certified or registered mail, the other copy to the polygraph examiner at the most current address as indicated by the records of the Department.

(2) The Department may grant a license as a polygraph examiner in this State to a person who is licensed as a polygraph examiner by another state or territory of the United States, without examination, upon application by such person in the manner prescribed by the Department and upon payment to the Department of a fee of \$50, payable to the Department, if the Department finds that such person:

- (a) Is at least 18 years of age;
- (b) Is a citizen of the United States;

(c) Has been fingerprinted and has submitted two (2) completed fingerprint cards to the Department for subsequent submission by the Department to the Oregon State Police, Identification Services Section. Appropriate fees shall accompany the applicant's fingerprints when submitted to the Department. Said fees are to pay costs of the fingerprint check through the Federal Bureau of Investigation. No General License shall be issued until the Department has received fingerprint clearance from the Oregon State Police Identification Services Section;

(d) Was licensed pursuant to the requirements of such other state or territory that, at the date of the issuance of such license by such other state or territory, were substantially equivalent to the requirements of the Act for licensing and regulation of polygraph examiners in this state;

(e) Is licensed by another state or territory that grants reciprocity to polygraph examiners licensed in this state; and

(f) If a nonresident of this state has complied with the requirements of section (1) of this rule.

(3) The Director, acting on the written recommendation of the Polygraph Licensing Advisory Committee, may require a licensed general polygraph examiner, licensed under this section, to appear for reexamination as directed. Failure of the licensee to comply with the directive to appear for reexamination shall result in the suspension of the polygraph license by the Department.

(4) The Department may, upon application of an individual polygraph examiner, accept the examiner's professional experience as being equal in professional value to the five years of active investigative experience required by ORS 703.090(1)(e) and OAR 259-020-0015(1)(f).

Stat. Auth.: ORS 703.230
Stats. Implemented: ORS 703.230
Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 3-1987, f. & ef. 10-26-87; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 9-2001, f. & cert. ef. 9-19-01

259-020-0025

Expiration and Renewal of Licenses

(1) Each polygraph examiner's license issued by the Department under provisions of the Act shall be issued for a period of one year. The Department may renew the license of a polygraph examiner, unless such license has been suspended or revoked, upon compliance by the person with such conditions as the Department may prescribe.

(2) A person whose polygraph examiner's license has expired may obtain a renewal license without examination within two years after the date of the expiration of such license by:

- (a) Submitting an application for renewal;
- (b) Payment of the required fee; and
- (c) Documentation that the required total number of training hours for the period of time of the expiration of the license has been met, as mandated in OAR 259-020-0025(4).

(3) A person whose polygraph examiner's license has expired while employed by any federal agency or while on active duty as a member of the Armed Forces of the United States or on active duty as a member of the National Guard of this State may obtain a renewal license, without examination, upon application therefor within two years after the date of termination of such employment or active duty and payment of the required fee for such renewal.

(4) Every two (2) years from the date of issue, all persons licensed under the Act shall successfully complete a minimum of thirty (30) hours of Department approved training specifically related to

the field of polygraphy. Department approved training in this field includes but is not limited to seminars sponsored by regional and national polygraph associations.

(a) All persons licensed under this Act shall document to the Department satisfactory completion of this training. Documentation shall include but is not limited to a certificate or letter of completion.

(b) Failure to comply with this section shall result in the Department's refusal to reissue a license. This requirement becomes effective 01-01-97.

(c) Upon written application and receipt by the Department of evidence that the conditions which caused the denial have been corrected to the satisfaction of the Department, a license then shall be reissued.

Stat. Auth.: ORS 703.230
Stats. Implemented: ORS 703.230
Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 2-2003, f. & cert. ef. 1-21-03

259-020-0030

Denial, Suspension, or Revocation of Licenses

(1) The Department may refuse to issue, or may suspend or revoke the license of any person as a polygraph examiner or trainee, if it finds that the person:

(a) Failed to inform an individual being examined as to the nature of the examination or failed to advise the individual or authorized representative of the results of the examination;

(b) Failed to inform an individual being examined that participation in the examination is voluntary;

(c) Made a material misstatement in the application for an original or renewal license under provisions of the Act;

(d) Willfully disregarded or violated any provision of the Act or any rule adopted pursuant thereto, including but not limited to the willful making of a false report of a polygraph examination or failing to appear for re-examination, as directed by the Director and under written recommendation of the Polygraph Licensing Advisory Committee;

(e) Made any willful misrepresentation or employed any false or misleading advertising to obtain business or the services of a trainee;

(f) Has demonstrated any inability or incompetency to carry out the duties of a polygraph examiner:

(A) The following are indicators of inability or incompetence to carry out the duties of a polygraph examiner:

- (i) Illegal conduct involving moral turpitude;
- (ii) Conduct involving dishonesty, fraud, deceit, or misrepresentation;

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

(iv) Use of test questions relating to sexual, religious, or political matters, unless such matters relate to the issue under investigation.

(v) Deliberately using unclear, misleading, circuitous, or ambiguous language in describing or explaining any part of an examination, including but not limited to the results of the examination; or

(vi) Failing to maintain any or all written records, along with polygraph charts or polygrams, of all polygraph examinations which they conduct. For purposes of validation, credibility, and/or accreditation, these records and charts are to be maintained in a manner consistent with State Archivist rules pertaining to reports of investigations conducted by Oregon State Police.

(B) If reliable evidence is received by the Department that a polygraph examiner lacks the ability or competence to carry out the duties of a polygraph examiner, a rebuttable presumption will be raised that the examiner does not possess the requisite ability and/or competence to be a licensed polygraph examiner. The burden will be upon the subject examiner to prove the examiner's ability and/or competence.

(g) Has permitted a license granted under the Act or any rule adopted pursuant thereto to be used by another person;

(h) Has willfully aided or abetted any violation of provisions of the Act or any rule adopted pursuant thereto; or

(i) Has failed, within a reasonable time, to provide any information requested by the Director after the receipt by the Department of a complaint alleging that such person has violated a provision of the Act or any rule adopted pursuant thereto.

(2) A trainee's license will be suspended after three unsuccessful attempts to pass the oral or written portion of the examination required under OAR 259-020-0015(1)(h). The Department shall sus-

pend the trainee's license of any person who fails to pass the oral or written portion of the examination required by OAR 259-020-0015(1)(h) after three attempts in accordance with OAR 259-020-0015(3)(c). The applicant may not reapply for internship until after retaking and successfully completing a polygraph examiner's course approved by the Department.

(3) Upon receipt of written notification of the suspension or revocation by the Department of a license, a polygraph examiner or trainee shall surrender immediately the license to the Director. The Department may restore a suspended license to the prior holder thereof, or may issue a license previously denied under subsection (1)(a) of this rule, upon written application and receipt by the Department of evidence that the conditions which caused the denial or suspension have been corrected to the satisfaction of the Department. All actions taken by the Department pursuant to this section shall be in conformance with the Oregon Administrative Procedures Act.

(4) The Department shall conduct all proceedings under the Act in accordance with ORS Chapter 183. Judicial review of an action by the Department shall be provided in ORS 183.480 to 183.500.

(5) Waivers:

(a) Waivers of the standards will not be allowed unless the trainee or examiner can present evidence that the circumstances are so extraordinary that the rule should not apply to them and that if approved the waiver will not adversely affect the public safety.

(b) All requests for waivers will be submitted to the Polygraph Licensing Advisory Committee for approval.

Stat. Auth.: ORS 703.230

Stats. Implemented: ORS 703.230

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 3-1987, f. & ef. 10-26-87; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 7-1999, f. & cert. ef. 7-29-99; BPSST 9-2001, f. & cert. ef. 9-19-01; BPSST 14-2002, f. & cert. ef. 7-1-02

259-020-0031

Procedure for Complaints, Denial, Suspension or Revocation

(1) Citizen request: When a citizen submits a complaint on any polygraph examiner or trainee license to the Department including the basis and all factual information supporting the complaint it will be the responsibility of the Polygraph Licensing Advisory Committee to review and, investigate all complaints and then make recommendation(s) to the Director on all allegations against a licensed polygraph examiner or trainee.

(2) The Director shall review the recommendation, the request and the supporting factual information to determine if the recommended action and the issues of the complaint meets statutory and administrative rule requirements. If the complaint issues do not meet the statutory and administrative rule requirements, the Department shall so notify the citizen. If the complaint and the Committee recommendation meets statutory and administrative rule requirements, but is not supported by adequate factual information, the Department shall request further information from the requesting citizen, Polygraph Licensing Advisory Committee. The Department may choose to conduct its own investigation of the matter separate from, or in conjunction with, that of the Polygraph Licensing Advisory Committee.

(3) The Department may deny, revoke, or suspend any polygraph examiner or trainee license after written notice and a hearing, if requested, based upon a violation of any provision of this act.

(4) Pursuant to the provisions of ORS 183.341, the Department adopts the Attorney General's Model Rules of Procedure applicable to contested cases under the Administrative Procedures Act, as amended and in effect on January 1, 2000.

(5) Contested Case Notice: The Department or its designated staff shall cause to be prepared a "Contested Case Notice" in accordance with the Attorney General's Model Rules of Procedure. The Department or its staff shall have a copy of the "Notice" served on the person whose license is being affected.

(6) Response Time:

(a) If the Department is seeking revocation or denial, a party who has been served with the "Contested Case Notice" shall have 20 calendar days from the date of the mailing or personal service of the notice in which to file a written request for a hearing with the Department.

(b) If the Department is seeking suspension, a party who has been served with the "Contested Case Notice" shall have 10 calendar days from the date of the mailing or personal service of the notice in which to file a written request for a hearing with the Department.

(7) Default Order: In the absence of a timely request for a hearing, the Contested Case Notice shall become a final order revoking, suspending, or denying licensure pursuant to OAR 137-003-0075(5).

(8) Hearing Request: When a request for a hearing is received in a timely manner, the Department shall refer the matter to the Hearings Officer Panel in accordance with OAR 137-003-0075(5).

(9) Findings of Fact, Conclusions of Law and Proposed Final Order. The presiding officer of the Hearings Officer Panel shall prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

(10) Exceptions and Arguments to the Findings of Fact, Conclusions of Law and Proposed Final Order. A party shall have 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order to file specific written exceptions and arguments with the Department.

(a) The Department may extend the time within which the exceptions and arguments shall be filed upon a showing of good cause.

(b) When the exceptions and arguments are filed, the party making the exceptions and arguments shall serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.

(11) Subject to the approval of the Attorney General, an officer or employee of this agency is authorized to appear on behalf of the agency in all contested case hearings conducted by this agency.

(12) The agency representative may not make legal arguments on behalf of the agency.

(a) Legal argument includes arguments on:

(A) The jurisdiction of the agency to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and

(C) The application of court precedent to the facts of the particular contested case hearing;

(b) Legal argument does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(A) The application of the facts to the statutes or rules directly applicable to the issues in the contested case;

(B) Comparison of prior actions of the agency in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case; and

(D) The admissibility of evidence or the correctness of procedures being followed.

(13) When an agency officer or employee represents the agency, the presiding officer shall advise each representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection. Where such objections involve legal argument, the presiding officer shall provide reasonable opportunity for the agency officer or employee to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Auth.: ORS 181.640(5) & 703.230(2)

Stats. Implemented: ORS 181.640(5) & 703.230(2)

Hist.: PS 3-1987, f. & ef. 10-26-87; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 9-2001, f. & cert. ef. 9-19-01; BPSST 14-2002, f. & cert. ef. 7-1-02

259-020-0035

License Fees

The following fees shall be charged by the Department in carrying out provisions of the Act:

(1) The fee of \$50 for the issuance of each original license as a general polygraph examiner.

(2) The fee of \$50 for the annual renewal of a license as a general polygraph examiner.

(3) The fee of \$50 for examination by the Department to determine the competency of an applicant as a polygraph examiner.

(4) The fee of \$35 for the issuance of a trainee license.

(5) The fee of \$35 for the annual extension or renewal of a trainee license.

(6) The fee of \$5 for issuance by the Department of a duplicate polygraph examiner or trainee license upon satisfactory proof that the original license has been lost or stolen.

(7) All fees, moneys, or other revenues received or collected by the Department under the Act shall be deposited in the Police Standards and Training Account.

Stat. Auth.: ORS 181 & 703

Stats. Implemented: ORS 181 & 703

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

259-020-0040

License Display and Registry

(1) A polygraph examiner shall display prominently the license at the place of business or employment, and a trainee shall display prominently the license at the place of internship.

(2) A polygraph examiner and trainees shall notify the Director in writing of any change in the principal place of business within 30 days after the date of such change. Upon discovery by the Director of failure by a licensee to comply with this section, the Director shall suspend immediately such license.

Stat. Auth.: ORS 181 & 703

Stats. Implemented: ORS 181 & 703

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 9-2001, f. & cert. ef. 9-19-01; DPSST 18-2008, f. & cert. ef. 10-15-08

259-020-0045

Polygraph Instruments

(1) All instruments or mechanical devices that are used to test or question individuals for the purpose of detecting deception or of verifying the truth of statements made by the individuals at least shall record visually, permanently, and simultaneously the cardio-vascular pattern, the respiratory pattern, and the galvanic skin response of each such individual. The patterns of other physiological changes of any such individual also may be recorded.

(2) No person may use any instrument or mechanical device to test or question individuals for the purpose of detecting deception or verifying the truth of statements made by the individuals that does not comply with the minimum requirements therefor under section (1) of this rule. The Department, in consultation with the Board, may, in the name of the State of Oregon, initiate and maintain appropriate judicial proceeding, in the manner provided by law for such proceedings, to enjoin the use of any instrumentation or mechanical device that does not comply with the minimum requirements specified in section (1) of this rule.

Stat. Auth.: ORS 181 & 703

Stats. Implemented: ORS 181 & 703

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

259-020-0050

Penalties

Violation of any provision of the Act or of any rule adopted thereunder is a Class A Misdemeanor.

Stat. Auth.: ORS 181 & 703

Stats. Implemented: ORS 181 & 703

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

259-020-0055

Polygraph Licensing Advisory Committee

(1) The Department may appoint a polygraph licensing advisory committee whose function shall be to assist and advise the Department concerning the administration of the Act. The advisory committee's duties may include, but not be limited to, providing advice and assistance to the Department in matters of content and procedures for required examinations, evaluation, and selection of polygraph examiners courses to be approved by the Department; evaluation of applications received for polygraph examiners licenses; examination and approval of instruments; investigation of complaints which could lead to license denial, suspension, or revocation; and general enforcement of all provisions of the Act.

(2) The advisory committee shall consist of a minimum of five members to be appointed by the Director, each appointment to be subject to ratification by the Board at its next regular meeting. Members

of the committee shall be initially appointed each for a two-year term with additional reappointments to two-year terms.

(3) The advisory committee shall select one of its members to serve as chairperson, and one to serve as vice-chairperson.

(4) The advisory committee shall hold regular meetings a minimum of three times per year; approximately once every four months. The advisory committee shall also coordinate the scheduling of special meetings with the Director and submit written reports as requested by the Director.

(5) Membership of the advisory committee shall consist of at least four persons qualified as general examiners; one a member of the Oregon Department of State Police, one a member of a county sheriff's department, one a member of a city police agency, and one from the private sector. Additional members of the committee may be selected on the basis of special qualifications to be determined by the Director, subject to the provisions of section (2) of this rule.

Stat. Auth.: ORS 703.230

Stats. Implemented: ORS 703.230

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 9-2001, f. & cert. ef. 9-19-01

259-020-0060

Applications

(1) Applications for polygraph examiner trainee licenses and general polygraph examiners licenses shall be submitted on an Application for Polygraph Examiners License (**DPSST Form F-203**).

(2) Applications for polygraph examiners licenses shall be accompanied by copies of certificates and such other documents as may be specified and required by the Board.

(3) Applications for polygraph licenses shall be accompanied by a check or money order payable to Department of Public Safety Standards and Training in the amount specified in OAR 259-020-0035.

(4) Original polygraph review critiques (**DPSST Form F-203a**) shall be submitted to the Department of Public Safety Standards and Training, according to the requirements outlined in OAR 259-020-0010(2).

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

Stat. Auth.: ORS 703.230

Stats. Implemented: ORS 703.230

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1983, f. & ef. 12-15-83; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 9-2001, f. & cert. ef. 9-19-01

259-020-0065

Licenses

Polygraph examiners trainee licenses and general polygraph examiners licenses will be issued on forms approved by the Department. Each license will:

- (1) Clearly designate the type of license awarded;
- (2) Display the licensee's name;
- (3) List the expiration date for the licensee; and
- (4) Bear the signature of the Director.

Stat. Auth.: ORS 703.230

Stats. Implemented: ORS 703.230

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

DIVISION 25

FEES FOR PUBLISHING, PRINTING, OR COPYING AND OTHER SERVICES

259-025-0000

Fees

(1) All information in the custody of the Director of the Department of Public Safety Standards and Training (Department) will be disclosed or protected from disclosure in accordance with ORS Chapter 192 and other applicable state and federal laws.

(2) As used in this rule, the following definitions apply:

(a) "Certified copies" means, photocopies, that on the date copied, are true and accurate copy of the original record. The Department cannot certify as to any subsequent changes or manipulation of the record.

Chapter 259 Department of Public Safety Standards and Training

(b) "Research" means the compilation or retrieval of information:

(A) That is not readily and immediately available from a single source or a group of related sources; or

(B) For which a search is required before the requested information can be located.

(3) A request for photocopies, facsimile (fax) copies, electronically distributed (e-mail) copies and certifications of public records that are on file with the Department must be made in writing, by fax or by e-mail.

(a) The request must:

(A) Include name and address of the person requesting the public record;

(B) Include telephone number of the person requesting the public record; and

(C) Adequately describe the record(s) requested including subject matter, and approximate creation date(s) when applicable.

(b) The request should:

(A) Be dated;

(B) Identify or be signed by the person requesting the public record; and

(C) Indicate a date by which the records are being requested.

(4) The Department will respond to the request in a reasonable amount of time.

(a) In its response, the Department will:

(A) Acknowledge the request;

(B) Provide an estimate of the expected cost of meeting the request;

(C) Identify any requested records that may be exempt from disclosure; and

(D) Identify the estimated date by which the information will be provided.

(b) The regular duties of the Department will be neither interrupted nor interfered with because of time or effort required to respond to the request.

(5) Unless otherwise provided by statute or other administrative rule, fees will be calculated as follows:

(a) Fees for in-stock publications, pamphlets or outlines will be as listed below:

(A) 1–10 pages — \$ 5.00;

(B) 11–25 pages — \$ 7.50;

(C) 26–50 pages — \$ 10.00;

(D) 51–100 pages — \$15.00;

(E) Over 100 pages — \$15.00, plus twenty-five cents (\$.25) per page for each additional page over 100.

(b) Documents other than publications will be charged at the rate of \$5.00 for the first 1–10 pages and \$.50 for each additional page.

(6) The Department may charge fees for recovering actual costs of staff time;

(a) For locating, compiling, making available for inspection and delivering public records; and

(b) Researching and documenting information.

(7) No charge will be made for furnishing normal and necessary records or publications to public safety officers, or public safety agencies.

(8) The Department may charge for the use of facilities at the Public Safety Academy.

(9) The Department may charge replacement cost for lost or damaged keys, equipment, or meal cards.

Stat. Auth.: ORS 181.640 & 703.230

Stats. Implemented: ORS 181.640 & 703.230

Hist.: PS 1-1983, f. & ef. 12-15-83; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 19-2002, f. & cert. ef. 11-21-02; DPSST 10-2007, f. & cert. ef. 10-15-07

DIVISION 30

DIRECTOR

259-030-0000

Director

(1)(a) The Director of the Department shall be appointed by and hold office at the pleasure of the Governor pursuant to the provisions of ORS 181.635.

(b) The person appointed as Director shall be selected from among three or more candidates recommended to the Governor by the Board. The candidates shall be well qualified by training and experience to perform the functions of the office.

(c) The appointed Director of the Department shall receive such salary as is provided by law or, if not so provided, as is fixed by the Governor.

(d) The Board shall annually evaluate the Director's implementation of policies, standards and minimum requirements for public safety certifications and training, reporting to the Governor the results of the evaluation.

(2) Duties and Authority:

(a) The Director, with the approval of the Governor and after consulting the Board for advice, shall organize and reorganize the Department in the manner the Director considers necessary to conduct the work of the Department properly.

(b) The Director shall be responsible to the Governor for the administration and management of the agency's activities and operation of the Oregon Public Safety Academy.

(c) With the approval of the Governor, the Director may appoint a Deputy Director, who shall serve at the pleasure of the Director, not be subject to the State Personnel Relations Law and have full authority to act for the Director, subject to the control of the Director. The appointment of the Deputy Director shall be by written order, filed with the Secretary of State.

(d) The Director, or the Director's designee, shall serve as Executive Secretary to the Board, but shall not be a member of the Board.

(e) The Director, subject to applicable provisions of the State Personnel Relations Law, shall appoint all subordinate officers and employees of the Department, prescribe their functions and fix their compensation.

Stat. Auth.: ORS 181.635 & 181.640

Stats. Implemented: ORS 181.635 & 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1981, f. 9-26-81, ef. 11-2-81; Renumbered from 259-010-0090, PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

DIVISION 40

COMPLIANCE

259-040-0000

Compliance

(1) The Department may conduct inspections of records and procedures of public and private safety agencies that are under the purview of the Public Safety Standards and Training Act in order to verify adherence to any applicable rule.

(2) The Department may initiate administrative and/or court action to enforce compliance with the provisions of ORS 181.610 to 181.705 and the rules promulgated thereunder.

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

Hist.: PS 1-1983, f. & ef. 12-15-83; PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98

DIVISION 50

DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

259-050-0005

Department of Public Safety Standards and Training

(1) In order to carry out its duties the Department may take title to real property needed for a training facility.

(2) The Department may enter into a financing agreement for the purpose of financing infrastructure components for a public safety training facility.

Stat. Auth.: ORS 181.610 - 181.712

Stats. Implemented: ORS 181.610 - 181.712

Hist.: BPSST 17-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 10-2002, f. & cert. ef. 4-3-02

DIVISION 60**PRIVATE SECURITY SERVICES PROVIDERS RULES****259-060-0005****Objectives**

(1) The objectives of the Department's Private Security Standards and Certification Rules are to improve the private security industry services in Oregon by raising the level of competence of private security personnel, individually and collectively:

(a) By establishing and maintaining minimum standards and qualifications for the training and certification of private security professionals;

(b) By establishing and maintaining minimum standards and qualifications for the training and licensing of executive and supervisory managers;

(c) By establishing and maintaining minimum standards for all training courses and testing required of private security professionals, executive and supervisory managers;

(d) By establishing and maintaining minimum standards and qualifications for all instructors providing the required training and testing; and

(e) By maintaining uniform compliance with all provisions of ORS 181.870 through 181.991, hereinafter referred to as the Private Security Service Providers Act, including the use of criminal records checks utilizing computerized criminal history information and fingerprint comparisons.

(2) The delineation of scope of authority and duties between the Board and the Department, as it relates to joint rulemaking, is the same as ORS 181.640(4)(5)(6).

Stat. Auth.: ORS 181.878(4)

Stats. Implemented: ORS 181.875, 181.878 & 181.880

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; DPSST 6-2006, f. & cert. ef. 5-15-06

259-060-0010**Definitions**

(1) "Accreditation Program Manager" means a person who is designated as the administrator of an employer accredited training program and is primary liaison with the Department.

(2) "Alarm Monitor" means a private security professional who remotely detects and reports conditions listed in ORS 181.870(8) to law enforcement agencies in Oregon.

(3) "Armed Private Security Professional" means a private security professional who is in possession of a firearm at any time while performing duties as a private security professional.

(4) "Assessment module" means a four-hour curriculum given to private security professionals that includes, but is not limited to, the demonstration of task-related skills learned in the eight-hour basic classroom instruction as applied to hypothetical situations.

(5) "Board" means the Board on Public Safety Standards and Training.

(6) "Certification" means recognition by the Department that a private security professional or instructor, meets all the qualifications listed in ORS 181.875 and the rules set forth in this Division.

(7) "Certified Private Security Instructor" and "instructor" as used in ORS 181.878, means recognition by the Department that a person meets the minimum qualifications as specified in OAR 259-060-0135.

(8) "Certified Private Security Firearms Instructor" means recognition by the Department that a person meets the minimum qualifications of a private security firearms instructor as specified in OAR 259-060-0135.

(9) "Conviction" or "Convicted" means a finding of guilt in a court of competent jurisdiction by a plea, a jury verdict or a determination by a judge sitting as a trier of fact at a trial. Conviction does not require a final judgment or sentence. A person will not be considered to have been convicted of an offense for purposes of these rules if the conviction is an offense for which the person has been pardoned. A person will also not be considered to have been convicted of an offense for purposes of these rules if the conviction has been expunged or set aside pursuant to the laws of any jurisdiction other than Oregon, provided, however, that the same offense, if committed in Oregon, would have been expunged or set aside pursuant to ORS 137.225. A person

will not be considered convicted of an offense committed in Oregon if the conviction has been set aside and the records of arrest and conviction have been ordered sealed pursuant to ORS 137.225.

(10) "Denial" or "Deny" is that action taken by the Department in refusing to issue a license or certificate to an applicant who has not satisfied all requirements for issuance of a license or certificate.

(11) "Department" means the Department of Public Safety Standards and Training.

(12) "Director" means the Director of the Department of Public Safety Standards and Training.

(13) "Direct supervision of new hire" means actively monitoring the work of a new hire by the ongoing and uninterrupted presence of a certified private security professional, or a licensed executive or supervisory manager. The person being monitored may not make decisions regarding any course of action independent of the person providing the direct supervision.

(14) "Employer" means an individual or entity who employs persons to provide private security services.

(15) "Executive Manager" means an individual who has the authority to act on behalf of the company or business in matters of licensure and certification, and whose primary responsibility is the management of certified private security professionals, including any supervisory managers. An executive manager has authority to issue Temporary Work Permits and has ultimate responsibility for compliance with ORS 181.870-181.991.

(16) "Instructor" means any person who has been certified by the department as meeting the requirements to provide instruction to private security providers or applicants.

(17) "License" means recognition by the Department that an employer, contractor, executive manager or supervisory manager meets the requirements adopted by the Board on Public Safety Standards and Training as necessary to provide private security services.

(18) "Policy Committee" means the Private Security Policy Committee created by ORS 181.889.

(19) "Primary responsibility" means an activity that is fundamental to, and required or expected in, the regular course of employment and is not merely incidental to employment.

(20) "Private" as used in ORS 181.870-181.887 means those activities intended for, or restricted to, the use of a particular person, group or interest; or belonging to or concerning an individual person, company or interest.

(21) "Private security professional" means an individual who performs, as the individual's primary responsibility, private security services for consideration, regardless of whether the individual, while performing the private security services, is armed or unarmed or wears a uniform or plain clothes, and regardless of whether the individual is employed part-time or full-time to perform private security services.

(22) "Private security provider" means any individual who performs the functions of a private security professional, executive manager, supervisory manager or instructor.

(23) "Private security services" means the performance of at least one of the following activities:

(a) The observation and reporting of any unlawful activity.

(b) The prevention of theft or misappropriation of any goods, money or other items of value.

(c) The protection of individuals or property, including, but not limited to, proprietary information, from harm or misappropriation.

(d) The control of access to premises being protected.

(e) The secure movement of prisoners.

(f) The taking of enforcement action by detaining persons or placing persons under arrest under ORS 133.225.

(g) Providing canine services for guarding premises or for the detection of unlawful devices or substances.

(24) "Revocation" or "Revoke" is that action taken by the Department after the licensee or certificate holder has had an opportunity for a hearing and the evidence supports allegations that the licensee or certificate holder has violated provisions of these administrative rules resulting in a Department order concluding that the licensee or certificate holder should not be allowed to continue to provide or implement security services.

(25) "Supervisory Manager" means an employee of or a person supervised by an executive manager who has as a primary responsibility the supervision of certified private security professionals.

(26) “Suspension” or “Suspend” is that action taken by the Department in temporarily depriving the holder of a license or certificate that authorizes provision or implementation of private security services.

(27) “Temporary work permit” or Form PS-20 means a form issued by the employer to allow a company to employ and deploy a private security professional, executive or supervisory manager while the application for certification or licensure is being processed. A temporary work permit will not be issued for armed security applicants.

Stat. Auth.: ORS 181.870 & 181.878

Stats. Implemented: ORS 181.870 & 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 11-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 4-2007, f. & cert. ef. 2-15-07; DPSST 11-2007, f. & cert. ef. 10-15-07; DPSST 6-2008, f. & cert. ef. 4-15-08

259-060-0015

Prohibited Acts

(1) It is unlawful:

(a) For a person to engage in the business of, or perform any service as, a private security professional, or to offer services in such capacity unless the person has obtained a certificate under the Private Security Service Providers Act and these rules.

(b) For a person to engage in the business of, or perform any service as, an executive or supervisory manager, or to offer services in such capacities unless the person has obtained a license under ORS 181.878.

(c) For a person to perform supervisory duties over persons performing crowd management or guest services, as described in ORS 181.871, unless the person has obtained a license or certificate under ORS 181.878.

(d) For an executive or supervisory manager to assign a person to perform private security services unless the person is certified as a private security professional under ORS 181.878 and these rules, except as otherwise provided in ORS 181.873(2) and OAR 259-060-0120(1)(b)(c) (relating to temporary assignments).

(e) To provide private security services as a private security professional without having a certificate or license issued under ORS 181.878 in the person's possession.

(f) For purposes of these administrative rules, these prohibitions apply to any business, employer, or entity that provides private security services within this state, or the monitoring of alarm systems designed to detect unauthorized intrusion, regardless of whether the business, employer or entity is located in this state.

(2) Conviction for a non-person felony or Class A misdemeanor will result in disqualification or revocation of certification as a private security provider for ten years from date of conviction.

(3) Exemptions: The following persons are exempt from regulation as private security providers:

(a) Persons holding a current Department certification as a police officer or parole and probation officer.

(b) A law enforcement officer of the United States.

(c) An individual while on active duty as a member of the armed services or while performing duties as a law enforcement officer.

(d) An officer or employee of this state, Oregon Health Sciences University established by ORS 353.020 or the United States.

(e) A person appointed or commissioned by the Governor to perform law enforcement or security services.

(f) An attorney admitted to practice law in this state.

(g) An insurance adjuster licensed in this state and performing duties authorized by the license.

(h) A person who monitors fire alarm systems and other alarm systems that are not designed to detect unauthorized intrusions.

(i) A person while protecting the person's property.

(j) A person who repairs and installs intrusion alarms.

(k) A person acting as an investigator or operative as defined in ORS 703.401.

(l) A person performing crowd management or guest services, including, but not limited to, a person described as a ticket-taker, an usher, parking attendant or event staff, or a person employed for the

purpose of age verification by a licensee of the Oregon Liquor Control Commission, who is not armed and is not hired with the primary responsibility of taking enforcement action as described in ORS 181.870(8)(f).

(m) A person who performs security services at a facility regulated by the United States Nuclear Regulatory Commission and the facility is operated by the person's employer.

(n) An employee of a financial institution who has been designated as a security officer for the financial institution pursuant to the Bank Protection Act of 1968 (12 U.S.C 1881 et seq) and regulations adopted thereunder or pursuant to ORS 723.276 (5).

(3) The exemption provided by subsection (2)(l) of this section applies only:

(a) If there is at least one person on-site who is certified or licensed under ORS 181.878 for every 10 or fewer uncertified persons performing the services described in subsection (2)(l) of this section;

(b) If any enforcement action, as described in ORS 181.870(8)(f), other than incidental or temporary action, is taken by or under the supervision of a person certified or licensed under ORS 181.878; and

(c) During the time when a crowd has assembled for the purpose of attending or taking part in an organized event, including pre-event assembly, event operation hours and post-event departure activities.

Stat. Auth.: ORS 181.873, 181.871 & 181.878

Stats. Implemented: ORS 181.873, 181.871 & 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 11-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06

259-060-0020

Minimum Standards for Certification or Licensure

(1) Age.

(a) An applicant for certification or licensure as a private security provider must be:

(A) At least 18 years of age to receive certification as a private security professional or unarmed private security instructor; and

(B) At least 21 years of age to receive certification as an armed security professional or armed private security instructor.

(b) All applicants for licensing as an executive or supervisory manager must be at least 18 years of age.

(2) Training. An applicant for certification or licensing must satisfactorily complete the applicable training requirements as approved by the Board on Public Safety Standards and Training and these rules.

(3) Moral Fitness (Moral Character). All private security providers must be of good moral fitness as determined by a criminal background check or department investigation.

(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 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 private security provider. 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 private security provider's performance on the job which makes the private security provider both inefficient and otherwise unfit to render effective service because of a loss of confidence in the private security provider's ability to perform competently.

(c) If reliable evidence is received by the Board or Department that a private security provider lacks good moral fitness, a rebuttable presumption will be raised that the private security provider does not

possess the requisite moral fitness to be a private security provider. The burden will be upon the private security provider to prove good moral fitness.

(4) Criminal History. An applicant for certification or licensure must not:

(a) Have been convicted of a person felony, as defined in the rules of the Oregon Criminal Justice Commission: ORS 162.165 (Escape I), 162.185 (Supplying Contraband as defined in Crime Categories 6 and 7 (Appendix 3)), 163.095 (Aggravated Murder), 163.115 (Murder), 163.118 (Manslaughter I), 163.125 (Manslaughter II), 163.145 (Negligent Homicide), 163.160(3) (Assault IV Felony), 163.165 (Assault III), 163.175 (Assault II), 163.185 (Assault I), 163.205 (Criminal Mistreatment I), 163.213 (Use of Stun Gun/Tear Gas/Mace I), 163.225 (Kidnapping II), 163.235 (Kidnapping I), 163.275 (Coercion as defined in Crime Category 7 (Appendix 3)), 163.355 (Rape III), 163.365 (Rape II), 163.375 (Rape I), 163.385 (Sodomy III), 163.395 (Sodomy II), 163.405 (Sodomy I), 163.408 (Sexual Penetration II), 163.411 (Sexual Penetration I), 163.425 (Sexual Abuse II), 163.427 (Sexual Abuse I), 163.525 (Incest), 163.535 (Abandon Child), 163.537 (Buying or Selling a Person Under 18 Years of Age), 163.670 (Using Child in Display of Sexually Explicit Conduct), 163.684 (Encouraging Child Sex Abuse I), 163.686 (Encouraging Child Sex Abuse II), 163.688 and 163.689 (Possession of Materials Depicting Sexually Explicit Conduct of a Child I and II), 163.732 (Stalking), 163.747 (Violation of Officer's Stalking Order), 163.750 (Violation of Court's Stalking Order), 164.075 (Theft by Extortion as defined in Crime Category 7 (Appendix 3)), 164.225 (Burglary I as defined in crime Categories 8 and 9, Appendix 3), 164.325 (Arson I), 164.395 (Robbery III), 164.405 (Robbery II), 164.415 (Robbery I), 164.877(3) (Tree Spiking (Injury)), 166.087 (Abuse of Corpse I), 166.165 (Intimidation I), 166.220 (Unlawful Use of a Weapon), 166.275 (Inmate in Possession of Weapon), 166.385(3) (Felony Possession of a Hoax Destructive Device), 167.012 (Promoting Prostitution), 167.017 (Compelling Prostitution), 468.951 (Environmental Endangerment), 811.705 (Hit and Run Vehicle (Injury)), 830.475 (Hit and Run (Boat)) and attempts or solicitations to commit any Class A or Class B person felonies as defined herein, or an equivalent crime with similar elements in another jurisdiction. Only Class B and Class C felony convictions may be considered by the Policy Committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2). There will be no waivers granted for Class A felony convictions.

(b) Within the 10-year period prior to applying for, or during, certification or licensure, must not:

(A) Have been incarcerated, placed on probation or paroled as the result of conviction of any felony, other than those described in subsection (a) of this section in this, or any other, jurisdiction. Class B and Class C felony convictions may be considered on a limited basis by the Policy Committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2).

(B) Have been convicted of violating ORS 163.435 (Contributing to the Sexual Delinquency of a Minor), 163.672 (1993 Edition) (Possession of Depiction of Sexual Conduct of a Child), 163.673 (1993 Edition) (Dealing in the Depiction of Sexual Conduct of a Child), 167.007 (Prostitution), 167.062 (Sadomasochistic Abuse or Sexual Conduct in a Live Show), 167.065 (Furnishing Obscene Material), 167.070 (Sending Obscene Material to Minors), 167.075 (Exhibiting An Obscene Performance to a Minor), 167.080 (Displaying Obscene Material to Minors), 167.087 (Disseminating Obscene Material) or an equivalent crime with similar elements in another jurisdiction. There will be no waivers granted for these listed convictions.

(C) Have been convicted of a person misdemeanor, as defined in the rules of the Oregon Criminal Justice Commission: ORS 161.405(2)(d) Attempt or 161.435(2)(d) Solicitation to Commit any Class C person felony as defined by the Oregon Criminal Justice Commission, 162.315 (Resisting Arrest), 163.160 (Assault IV), 163.190 (Menacing), 163.195 (Recklessly Endangering Another Person), 163.200 (Criminal Mistreatment II), 163.208 (Assaulting a Public Safety Officer), 163.212 (Unlawful Use of an Electrical Stun Gun, Tear Gas or Mace II), 163.545 (Child Neglect II), 163.575 (Endangering the Welfare of a Minor), 163.605 (Criminal Defamation), 163.732(1) (Stalking), 163.750(1) (Violating Court's Stalking Protective Order), 166.065(4) [Harassment (Offensive Sexual Contact)], 166.155 (Intim-

idation II), 166.385 (Possession of Hoax Destructive Device) or an equivalent crime with similar elements in another jurisdiction;

(D) Have been convicted of the following misdemeanors: ORS 162.075 (False Swearing), 162.085 (Unsworn Falsification), 162.145 (Escape III), 162.247 (Interfering with a Peace Officer), 162.295 (Tampering with Physical Evidence), 162.335 (Compounding a Felony), 162.365 (Criminal Impersonation), 162.369 (Possession of False Law Enforcement Identification Card), 162.385 (Giving False Information to Police Officer), 163.465 (Public Indecency), 163.709 (Unlawful Directing of Light from a Laser Pointer), 164.045 (Theft II), 164.125(5)(b) (Theft of Services), 164.140 (Criminal Possession of Rented or Leased Personal Property), 164.235 (Possession of Burglar's Tools), 164.255 (Criminal Trespass I), 164.265 (Criminal Trespass while in Possession of a Firearm), 164.335 (Reckless Burning), 164.354 (Criminal Mischief II), 164.369 (Interfering With Police Animal), 164.377(4) (Computer Crime), 165.007 (Forgery II), 165.055(4)(a) (Fraudulent Use of a Credit Card), 165.065 (Negotiating a Bad Check), 166.115 (Interfering With Public Transportation), 166.250 (Unlawful Possession of Firearms), 166.350 (Unlawful Possession of Armor Piercing Ammunition), 166.425 (Unlawful Purchase of Firearm), 167.262 (Adult Using Minor in Commission of Controlled Substance Offense), 471.410 (Providing Liquor to Person under 21 or Intoxicated Person), or an equivalent crime with similar elements in another jurisdiction. Convictions for any of the listed misdemeanors may be considered on a limited basis by the Policy Committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2);

(c) Have been convicted, within the 10-year period prior to applying for, or during, certification or licensure, of a "misdemeanor crime of domestic violence," in this or any jurisdiction. A "misdemeanor crime of domestic violence" means a misdemeanor under the law of any jurisdiction involving the use or attempted use of physical force, or threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is co-habiting with or has co-habited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or a guardian of the victim. Convictions for any of the listed misdemeanors may be considered on a limited basis by the Policy Committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2);

(d) Have been convicted, within the 10-year period prior to applying for, or during, certification or licensure, of a misdemeanor or felony involving the unlawful use, possession, delivery or manufacturing of a controlled substance, or a misdemeanor or felony of similar elements, in this or any jurisdiction: 475.525 (Sale of Drug Paraphernalia), 475.991 (Unlawful Delivery of Imitation Controlled Substance), 475.992 (Prohibited Acts, Manufacturing or Delivering of a Controlled Substance within 1,000 feet of School), or an equivalent crime with similar elements in another jurisdiction.

(e) Have been convicted, within the seven-year period prior to applying for, or during, certification or licensure, of the following misdemeanors, or a misdemeanor of similar elements, in this or any jurisdiction; 164.043 (Theft III), 164.125(5)(a) (Theft of Services), 162.375 (Initiating a False Report), 166.240 (Carrying of Concealed Weapons), or an equivalent crime with similar elements in another jurisdiction. Convictions for any of the listed misdemeanors may be considered on a limited basis by the Policy Committee and the Board for waiver of suspension, denial or revocation, under the process outlined in OAR 259-060-0300(2);

(f) Have been required to register or be registered as a sex offender under ORS 181.595, 181.596 or 181.597. There will be no waivers granted for any persons in this category.

(5) Firearms Restrictions. An applicant for armed private security professional or instructor certification will not be eligible for certification if the applicant:

(a) Has been committed to the Mental Health and Development Disability Services Division under ORS 426.130, or similar order in another jurisdiction;

(b) Has been found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;

(c) Is prohibited under US Code Title 18, Section 922(g)(8) (relating to civil restraining orders including stalking or harassment) from possessing a firearm in interstate commerce; or

(d) Is prohibited under any law of this state or any federal law from purchasing, owning or possessing a firearm.

(6) Failure to Meet Firearms Criteria. In the event a certified armed private security officer, or an applicant for such certification, should at any time fail to meet the requirements of subsections (4)(a) through (d) or (5)(a) through (d) herein, the certificant/applicant and the manager, employer or supervisor of the certificant/applicant, must:

(a) Notify the Department or its designee within 48 hours, in writing, of the circumstance making the certificant/applicant ineligible to purchase, own or possess a firearm. The notification must list all facts known, including any written documentation, and must identify a person whom the Department may contact to obtain additional information;

(b) Transfer the employee to an unarmed position until a determination has been made by the Department regarding the status of the certificant/applicant; and

(c) Retrieve any issued weapons and ammunition.

(7) ADA Compliance. Individual employers or entities are expected to conform to federal ADA guidelines as they relate to physical fitness standards.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 181.875, 181.878 & 181.883

Stats. Implemented: ORS 181.875 & 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 10-2003(Temp), f. & cert. ef. 6-16-03 thru 12-1-03; DPSST 12-2003, f. & cert. ef. 7-24-03; DPSST 6-2004, f. & cert. ef. 4-23-04; DPSST 9-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 19-2008, f. & cert. ef. 10-15-08

259-060-0060

Eight-Hour Basic Classroom Instruction

(1) The training requirements for certification as a private security provider are:

(a) Eight hours of basic classroom instruction based upon a curriculum approved by the Board or its designated staff. For purposes of these rules, classroom instruction includes use of a subject matter expert, audio, visual and actual classroom instruction. Private security managers and instructors must utilize a management-specific training manual approved by the Board or designated staff, and review the training in a self-study environment. Any manager who provides private security services in the capacity of a private security professional must complete the full training designated for that classification (e.g., unarmed, armed or alarm monitor).

(b) An applicant may challenge the eight-hour basic classroom instruction component of the training requirements, if the person has two or more years of experience in the field of law enforcement, military police or private security. The person may challenge the eight-hour basic classroom instruction component only once. The four-hour assessment module may not be challenged.

(c) Four hours of additional assessment by a DPSST-certified instructor as detailed in OAR 259-060-0075. Managers and instructors will complete a four-hour management-specific orientation under the direction of the Department's designee, rather than a certified private security instructor.

(d) Successful completion of a written examination administered in compliance with OAR 259-060-0065. Managers and instructors will complete the written examination utilizing the management-specific training manual provided as a resource by the Department. The written examination will be reviewed at the manager's or instructor's four-hour orientation for grading by the Department's designee.

(2) All required training must be conducted by a certified private security instructor as defined by OAR 259-060-0135 or Department designee. Only a certified private security instructor or Department designee may sign a Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results).

(3) It is the responsibility of the applicant to obtain a completed Form PS-6 sealed in an approved tamper-proof bag and to submit this sealed bag to the Department, along with the completed application packet and fees. The instructor must provide to the applicant the fully-

completed original Form PS-6, sealed in a tamper-proof bag, if the applicant successfully completed all requirements. Additionally, the instructor must provide the applicant with a Form PS-6 colored carbon copy, and the instructor will retain the other carbon copy in the instructor's files for the life of the training (two years).

(4) The Department or its designated staff may cause inspections of training methods, instructors and accredited training programs to be made pursuant to ORS 181.878(4)(b), 181.878(6), and OAR 259-060-0135(6).

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 4-2007, f. & cert. ef. 2-15-07; DPSST 6-2008, f. & cert. ef. 4-15-08

259-060-0065

Written Examinations

(1) Written examinations covering the required classroom instructional materials will be prepared and approved by the Board or its designated staff.

(2) A Department-certified instructor must administer the applicable written examination.

(3) The applicant must achieve a minimum of 80 percent correct answers on general test questions.

(4) A Department-certified instructor must review each incorrect test question with the applicant, explaining the principle behind the question, the correct answer and the basis for the correct answer. Oral responses of the applicant and the instructor's assessment of whether the applicant understands the underlying principles and the appropriate answer may cause the termination of training or indication on the Form PS-6 that the applicant has failed to successfully complete the required training. The instructor has the option of:

(a) Remediating the incorrect test responses (i.e., counting as correct the initially incorrect test answers) if the score is 50 to 99 percent correct; or

(b) Advising the applicant to repeat those portions of the training applicable to the missed questions and to retake the applicable sections of the written examination if the score is under 50 percent; or

(5) The Department-certified instructor must complete Form PS-6 affirming that the applicant's identity was confirmed and that the integrity of the examination process was maintained. No one other than the administering instructor may sign the Form PS-6 reflecting completion of training.

(6) The Department-certified instructor must fully complete, enclose and seal Form PS-6 in the approved tamper-proof bag and present the form(s) to the applicant to be sent to the Department along with Form PS-1 (Application for Licensure or Certification of Private Security Services Providers).

(7) Private Security managers and instructors will complete the written examination utilizing the management-specific training manual provided by the Department. The written examination will be taken to the four-hour orientation for grading by the Department's designee.

(8) The applicant may also elect to complete Form PS-7 (Private Security Instructor Evaluation) for submission to the Department together with the other application materials. The instructor has no authority to view this completed form, which will be used by the Department to evaluate performance.

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878 & 181.883

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 4-2007, f. & cert. ef. 2-15-07

259-060-0070

15-Hour Firearms Course and Marksmanship Qualifications

(1) The training requirements for certification as an armed private security professional are:

(a) Satisfactory completion of the training requirements set forth in OAR 259-060-0060;

(b) An additional course of instruction based upon a curriculum approved by the Board or its designated staff;

(c) Successful completion of an additional written examination, administered in accordance with OAR 259-060-0065, covering firearms instructional materials;

(d) A minimum marksmanship qualification score of 100 percent on a firearms qualification course and target approved by the Board or its designated staff.

(2) The basic firearms instructional course and marksmanship qualification must be administered by a certified private security or public safety firearms instructor (OAR 259-060-0135(3)). Only the administering instructor may complete the Form PS-6.

(3) The instructor must provide to the applicant the fully-completed original Form PS-6, sealed in a tamper-proof bag, if the applicant successfully completed all requirements.

(4) The Department or its designated staff may cause inspections of training methods or the instructors to be made pursuant to ORS 181.878(4)(b), 181.878(6), and OAR 259-060-0135(6).

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878 & 181.883

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 11-2008, f. & cert. ef. 7-15-08

259-060-0075

Four-Hour Assessment Module

(1) For purposes of these rules, an approved or accredited four-hour assessment module means a four-hour curriculum given to private security professionals that includes, but is not limited to, demonstration of task-related skills learned in the eight-hour basic curriculum instruction as applied to hypothetical situations, administered by a Department-certified private security instructor. Managers will complete the four-hour orientation under the direction of the Department's designee, rather than a certified private security instructor.

(2) The required activities must include applicant completion of task-related skills based on classroom curriculum.

(3) It is the responsibility of the applicant to obtain a completed Form PS-6 and forward this to the Department. The instructor must provide to the applicant the fully-completed original Form PS-6, sealed in a tamper-proof bag, if the applicant successfully completed all requirements. Additionally, the instructor must provide the applicant with a Form PS-6 colored carbon copy, and the instructor will retain the other carbon copy in the instructor's files for the life of the training (two years).

(4) It is not necessary for a prospective applicant to be employed as a private security provider to receive the eight-hour classroom training and four-hour assessment module.

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878 & 181.883

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 4-2007, f. & cert. ef. 2-15-07

259-060-0080

Annual and Biennial Refresher Courses of Instruction

(1) In addition to the training requirements set forth in OAR 259-060-0060, 259-060-0070 and 259-060-0075 four-hour unarmed refresher courses and manager orientations must be completed biennially, within the 90 days prior to the expiration date of the certificate or license. Armed refresher courses must be completed annually, within the 90 days prior to the anniversary date of the certificate.

(a) Persons certified as private security professionals, or licensed as executive or supervisory managers, must successfully complete

an approved or accredited four-hour refresher course biennially within the 90 days prior to the expiration date of the certificate;

(b) Persons certified as armed private security professionals must successfully complete a refresher course annually based upon a curriculum approved by the Board or its designated staff; must regularly annually in firearms marksmanship as provided in OAR 259-060-0085; and shall complete biennially the four-hour unarmed refresher course, within the 90 days prior to the expiration date of the certificate.

(c) Persons certified as private security professionals or licensed as executive or supervisory managers must successfully complete a written examination based upon the content of the required refresher course(s) and administered in accordance with OAR 259-060-0065.

(2) The four-hour biennial unarmed refresher course must be administered by a Department-certified unarmed private security instructor, or a Department-certified private security firearms instructor who has completed the unarmed instruction orientation. Firearms instructors who complete the unarmed instructor training will not be assessed an additional certification fee for the unarmed instructor status. Refresher course instruction required of armed private security officers must be administered by a certified private security or public safety firearms instructor.

(3) It is the responsibility of the holder of the certificate or license to obtain a completed and sealed Form PS-6 and to forward the documentation to the Department. The instructor must provide to the applicant the fully-completed original Form PS-6, sealed in a tamper-proof bag, if the applicant successfully completed all requirements. Additionally, the instructor must provide the applicant with a Form PS-6 colored carbon copy, and the instructor will retain the other carbon copy in the instructor's files for the life of the training (two years).

(4) The person taking the examination may also elect to complete Form PS-7 (Private Security Instructor Evaluation) for submission to the Department.

(5) The holder of the certificate or license must complete (as required) the biennial four-hour refresher course, submitting the Form PS-6 to DPSST not more than 90 days prior to the expiration date of the certification or licensure. The holder of an armed certificate must also complete the annual firearms instruction refresher course, written exam, and marksmanship qualification, submitting the Form PS-6 to DPSST not more than 90 days prior to the anniversary date of the certification.

(6) Failure to comply with the requirements of this rule may result in suspension or revocation of a certificate or license.

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878 & 181.883

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 4-2007, f. & cert. ef. 2-15-07

259-060-0085

Annual Firearms Marksmanship Requalifications

(1) The annual firearms marksmanship requalification, required only of armed private security professionals, must be administered by a certified private security or public safety firearms instructor.

(2) The standards and safeguards shall be in conformity with those specified in OAR 259-060-0135(3)(b) and 259-060-0070.

(3) It is the responsibility of the holder of the certificate to obtain a completed and sealed Form PS-6 and to forward this sealed tamper-proof bag to the Department.

(4) The person seeking requalification must complete the annual firearms marksmanship requalification not more than 90 days prior to the anniversary date of the certificate.

(5) Failure to comply with the requirements of this rule will result in the suspension or revocation of the certification.

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878 & 181.883

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp),

f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06

259-060-0090

Challenge of Classroom Instruction

(1) Private Security Providers Training Challenge.

(a) A person may challenge the eight-hour basic classroom instruction component of the training requirement as described in OAR 259-060-0060 if the person:

(A) Has two or more years of experience in the field of law enforcement, military police or private security services; or

(B) Has received any private security or law enforcement training.

(b) The applicant will only be given one opportunity to challenge the mandated basic classroom instruction course by successfully completing the required written examination administered by a certified private security instructor in accordance with OAR 259-060-0065.

(A) The applicant must submit to the Department the original Form PS-6, sealed in the approved tamper-proof bag, and the completed application packet. The instructor must fully complete the form.

(B) Failure to obtain a passing score on the challenged examination will require attendance at the mandated basic classroom instruction course and successful completion of the examination.

(C) A person who successfully challenges the basic classroom instruction component of the training:

(i) Is required to successfully complete the four-hour assessment module; and

(ii) Must receive from the instructor a private security professional manual, that contains the curriculum of the basic classroom instruction component, to serve as a resource for the challenging applicant.

(2) This provision is intended to recognize formal education and work experience.

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878 & 181.883

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 11-2007, f. & cert. ef. 10-15-07

259-060-0092

Accreditation of Private Security Training Programs

(1) An employer seeking accreditation of training programs pursuant to ORS 181.878(3) must submit:

(a) A completed application on a form approved by the Department;

(b) A course syllabus with an hour- breakdown of the course outline and training schedule;

(c) A complete copy of the course curriculum; and

(d) Any required fees.

(2) Requests for accreditation that are determined by the department to be incomplete or insufficient will be returned to the designated accreditation program manager and Executive Manager, with an explanation of the deficiency.

(a) If the deficiency is not corrected within 21 days of the date of the letter, the request for accreditation will be administratively terminated.

(b) A provider must resubmit all required information, in accordance with subsection (1) of this section to reapply.

(3) The accredited program must be under the direction of a designated Accreditation Program Manager.

(a) Certified Private Security Instructors must administer the delivery and instruction of the accredited curriculum, in accordance with OAR 259-060-0135.

(b) Training records must be maintained by the instructor pursuant to OAR 259-060-0095.

(4) A written accreditation agreement must be under the direction of a designated Accreditation Program Manager.

(a) The accreditation agreement will not be valid until signed by the Department's designee, the security service provider's executive manager and designated accreditation program manager.

(b) The accreditation agreement must be renewed every two years in accordance with subsection (1) of this section.

(5) The Department may conduct periodic reviews of an accredited program.

(a) The review may consist of physical audits or written questionnaires.

(b) The Department, at its discretion, or upon constituent request, may monitor training and testing processes during the delivery of an accredited portion of the training program.

(c) The Department shall, at a reasonable time, be given access to personnel training records to verify training received under the accredited program.

(6) The accreditation agreement may be terminated for any of the following reasons:

(a) Any violation of the Private Security Service Providers Act or its administrative rules;

(b) Failure to comply with the terms of the accreditation agreement;

(c) At the discretion of the Department, or the service provider, with 14 days written notice.

(A) The executive manager, on behalf of the private security service agency, shall have the right to appeal a proposed termination of an accreditation agreement. The appeal must be in writing addressed to the Department.

(B) The Department may work with the service provider to correct any violation and continue the accreditation agreement upon a finding of good cause.

(7) Individuals or private security service agencies that use another service provider's accredited training program must also enter into an accreditation agreement with the Department before utilizing the accredited program.

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878 & 181.883

Hist.: DPSST 4-2007, f. & cert. ef. 2-15-07

259-060-0095

Training Records

(1) It is the sole responsibility of the applicant or holder of the license or certificate to maintain his or her training records. However, instructors must maintain their copies of students' Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results) for two years after the training date. Students are entitled to obtain a copy of the Form PS-6 from the instructor, at reasonable expense to the student, at any time during the life of the training.

(2) It is the sole responsibility of the applicant or holder of the license or certificate to submit the original Form PS-6 as specified in these rules. The instructor must provide to the applicant the fully-completed original Form PS-6, sealed in a tamper-proof bag, if the applicant successfully completed all requirements. Additionally, the instructor must provide the applicant with a Form PS-6 colored carbon copy, and the instructor will retain the other carbon copy in the instructor's files for the life of the training (two years).

(3) Upon receipt of a properly completed Form PS-6, indicating training completed by a licensee or certificate holder, the Department's designated staff, will record the training records.

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

Stat. Auth.: ORS 181.875, 181.878, 181.880 & 181.883

Stats. Implemented: ORS 181.878 & 181.880

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06

259-060-0115

Restrictions on Vehicles; Restrictions on Description of Security Services and Providers

The Oregon Revised Statutes include restrictions that relate directly to the private security industry, such as criminal impersonation, criminal impersonation of a peace officer, copying or imitating the standard Oregon State Police uniform, knowingly falsifying any information pertinent to an application for private security certification, prohibited lighting on vehicles, misuse of the Oregon State Seal and providing security services as a professional without being certified to do so:

- (1) Criminal impersonation of a peace officer = Class C felony, up to five years and \$100,000 fine;
- (2) Criminal impersonation of a public servant = Class A misdemeanor, up to one year and \$5,000 fine;
- (3) Copy or imitate standard OSP uniform = Class A misdemeanor, up to one year and \$5,000 fine;
- (4) Knowingly falsify private security provider application = Class A misdemeanor, up to one year and \$5,000 fine;
- (5) Misuse of the Oregon State Seal = civil penalty of up to \$500;
- (6) Use of prohibited lighting equipment = Class C traffic violation; fines and assessments may vary.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06

259-060-0120

Private Security Professional Certification

(1) Under ORS 181.873(1)(a), it is unlawful for a person to engage in the business of, or perform any service as, a private security professional, or to offer services in such capacity, unless the person has obtained certification as a professional, in accordance with these rules.

(a) A Department-licensed executive manager may temporarily assign a person who is not certified as required by these rules to perform private security services within this state for a period of time not to exceed 90 days if:

(A) The person is employed in another state;

(B) The person holds a private security professional certification or licensure from another state; and

(C) The certification or licensing standards of the other state meet or exceed the standards of this state.

(D) The intent of this provision is to allow a company to transfer its employees to this state for the purpose of temporary assignment.

(E) A Department-licensed executive manager must provide to DPSST a copy of the authorizing state's statutory requirements for private security professionals, demonstrating that the professional has undergone a criminal history fingerprint background check. Additionally, the executive manager must complete Form PS-9 (Private Security Waiver for Reciprocity), a triplicate form; the original must be mailed to the Department or its designated staff, one copy must be retained by the employer, and one copy must be retained by the employee. The employee copy of this form must be carried on the employee's person at all times while performing private security services in this state or while on duty. It must be presented to any law enforcement officer upon demand and must be displayed to any other person upon reasonable request.

(F) The reciprocity packet must bear a postmark on or before the first day the applicant performs private security services in this state.

(b) A Department-licensed executive manager or supervisory manager who has completed the manager specific orientation requirement of OAR 259-060-0075 may temporarily assign a person, whose application for certification as a private security professional is being processed, to perform private security services within this state for a period of time not to exceed 120 days under the following conditions:

(A) The applicant has completed all the requirements under this section (OAR 259-060-0120), including training;

(B) A Department-licensed manager has completed and signed the applicable portions of Form PS-20 (Private Security Temporary Work Permit), affirming the above requirements have been met;

(C) The Department-licensed executive manager or supervisory manager has attached the original of Form PS-20 to Form PS-1 (Application for Licensure or Certification of Private Security Services Provider); and

(D) The Department-licensed manager has mailed to the Department each of the items in this section, as a complete packet. Form PS-4 is a sworn statement and must be sealed in a tamper-proof bag, along with the fingerprint cards, by the person rolling the prints; Form PS-6 is a sworn statement, and must be sealed in a tamper-proof bag by the issuing instructor. The application packet must bear a post-

mark on or before the first day the applicant performs private security services. Form PS-27 (Private Security Code of Ethics) is for the use of the applicant. For purposes of this rule, the Department will not require submission of a PS-6 for any private security provider who is enrolled in an accredited private security program at the time of application.

(E) If an applicant has not completed each step of the application process, including training, the applicant can not perform unsupervised private security services. Such persons may only provide private security services under the direct supervision of a certified private security professional, licensed executive or supervisory manager. The person being monitored can not make decisions regarding any course of action independent of the person providing the direct supervision. The duration for direct supervision for an applicant is no more than 21 consecutive calendar days, during which time the applicant must be under the uninterrupted presence of a certified private security professional.

(F) The intent of the Form PS-20 provision is to allow a company to employ and deploy a private security professional or manager, while the application for certification or licensure is being processed. A temporary work permit will not be issued for armed private security professionals.

(G) The Form PS-20 will last no longer than 120 days and, in any event, shall end upon written notice from the Department to the applicant that the permit has been administratively terminated under subsection (1)(b)(H) of this rule.

(H) Upon written notice from the Department to the applicant and the manager who signed the Form PS-20, the permit and authority to provide private security services may be administratively terminated for the following reasons:

(i) The Department has reason to believe that a person with the applicant's name and birth date has been convicted of a disqualifying crime listed in OAR 259-060-0020.

(ii) The application is incomplete or the Department has been unable to verify application information to its satisfaction due to non-response or non-compliance of the applicant.

(iii) Applicant has violated any private security administrative rule or condition imposed by Form PS-20. Applicants who provide false information in their application, contrary to their sworn oath, will be disqualified from reapplying for a period of 10 years.

(iv) The fingerprint cards of applicant have been rejected under subsection 5(b) of this rule.

(I) Upon notification from the Department that the Form PS-20 has been administratively terminated because of a deficiency in application, the manager who signed the permit must notify the applicant that he or she may not perform private security services. A new application with corrected deficiencies must be filed, along with a new certification fee, prior to the applicant resuming duties. This provision does not apply to terminations based upon criminal conviction disqualification.

(J) The termination of the Form PS-20 due to a criminal conviction disqualification is subject to the contested case hearing procedures set forth in OAR 259-060-0300.

(c) The Department or its designated staff may administratively terminate the application process if the Department is unable to complete the certification process due to non-response or non-compliance of the applicant after exhausting the following efforts:

(A) A letter will be mailed by the Department to the applicant, and the last known employer of the applicant, identifying the deficiencies in the Form PS-1, or the rejection of the fingerprint cards of applicant.

(B) The applicant and any manager supervising the applicant will have 21 calendar days from the date of mailing to bring the applicant into compliance and to notify the Department that the deficiencies are corrected. The Department may, in its discretion, elect to extend the time for compliance upon good cause shown by the applicant or its manager.

(C) If the Department is unable to determine a current address for the applicant, or if the applicant or manager does not respond and correct the deficiencies within 21 calendar days, or such additional time authorized by the Department, the Department will list the applicant's status as "administratively terminated." The Department will notify the applicant at his or her last known address, and notify the last known

employer of the applicant, that the Department has administratively terminated the application process.

(D) Once the application process has been administratively terminated, the applicant will be required to submit a new Form PS-1, with another certification fee. An applicant whose application process has been administratively terminated is not eligible to perform private security services until a new, complete application and fees are submitted to the Department, along with a Form PS-6 providing proof of new basic training.

(2) The requirements for certification as an unarmed private security professional are as follows:

(a) Compliance with the minimum standards for certification under OAR 259-060-0020;

(b) Successful completion of the mandatory eight-hour basic classroom instruction required under OAR 259-060-0060, including successful completion of the written examination;

(c) Successful completion of the mandatory four-hour assessment module required under OAR 259-060-0075; and

(d) Submission to the Department of the completed application packet as required under Sub (5) of this rule, together with the appropriate fees.

(3) The requirements for certification as an armed private security professional are as follows:

(a) Compliance with the minimum standards for certification under OAR 259-060-0020;

(b) Successful completion of the mandatory eight-hour basic classroom instruction required under OAR 259-060-0060, including successful completion of the written examination;

(c) Successful completion of the mandatory four-hour assessment module required under OAR 259-060-0075;

(d) Successful completion of the mandatory 15-hour firearms course and marksmanship qualification required under OAR 259-060-0070, including successful completion of the written examination and satisfaction of marksmanship requirements; and

(e) Submission to the Department of the completed application packet as required under (5) of this rule, together with the appropriate fees.

(4) A certified private security provider or applicant must carry the certificate or Form PS-20 on his or her person at all times while performing security services or while on duty. The certificate or Form PS-20 must be presented to any law enforcement officer upon demand, and must be displayed to any other person upon reasonable request. A temporary work permit will not be issued for instructors or armed private security professionals.

(5) The application packet for certification as a private security provider must include:

(a) A completed Form PS-1, including a sworn affidavit attesting to the truth and correctness of the information provided by the applicant, and acknowledging the Department's right to terminate a temporary work permit. Falsification of this application can result in a denial of certification for up to ten years, as well as pursuit of criminal charges.

(b) A completed fingerprint packet. The Department will accept fingerprint cards correctly rolled and completed by private security or public safety personnel trained to roll fingerprints, or a person who is employed and trained by a private business that provides fingerprinting services. These fingerprint cards must be submitted on the pre-printed FBI fingerprint cards supplied by the Department, and must be sealed in a tamper-proof bag by the person rolling the prints. A fee will be charged for the third submittal of fingerprint cards if rejected twice by the Federal Bureau of Investigation;

(A) A fingerprint packet must include two fingerprint cards, and a Form PS-4. The person rolling the fingerprints must complete Form PS-4, enclose the two completed fingerprint cards and the Form PS-4 in the tamper-proof bag, seal it, and return it to the applicant.

(B) When the fees, application and completed fingerprint packet are received, the Department will assign a Private Security Identification number to the applicant, record that number on the fingerprint cards and forward the fingerprint cards to Oregon State Police. The Oregon State Police will process one set of the prints and send the other set of prints to the Federal Bureau of Investigation (FBI) for processing;

(C) The applicant's fingerprints will be retained and kept on file by the Oregon State Police Identification Services Section;

(D) The Oregon State Police Identification Services Section will notify the Department or its designated staff of any criminal record disclosed through processing the applicant's fingerprint cards; and

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

(c) The original Form PS-6 sealed by the instructor in the approved tamper-proof bag;

(d) A completed Form PS-7 (Private Security Instructor Evaluation) (optional);

(e) The original of completed Form PS-20 when required.

(6) The applicant must submit the nonrefundable certification fee (including the fingerprint processing fee) to the Department or its designated staff, along with the application packet.

(7) The completed application packet must be mailed to the Department or its designated staff prior to the applicant performing any private security services.

(8) Renewal of certification must occur every two years subject to the following conditions:

(a) The certificate holder must, within the 90-day period prior to certificate expiration, obtain refresher training as provided for in OAR 259-060-0080, submit the Form PS-6, required fees and a completed Form PS-21 (Renewal of Private Security Licensure or Certification). A copy of the Form PS-21 must be carried on the provider's person, while performing private security duties, until a new certificate is received.

(b) The provider must submit the nonrefundable renewal fee to the Department or its designated staff.

(c) The renewal documents must be received by the Department not more than 90 days prior to the anniversary date of the certification or licensure to allow for processing of the forms and criminal history check. The background check may determine convictions or other conditions under OAR 259-060-0020 that would disqualify the provider.

(d) Failure to comply with renewal requirements will result in the expiration of certificate or license.

(A) Persons reapplying within 90 days of expiration must complete the Form PS-21, and shall submit the certification fee.

(B) Persons reapplying after 90 days of expiration must complete the Form PS-21 (Application for Licensure or Certification), and must submit the certification fees, plus a \$25.00 late submission penalty fee.

(C) Persons continuing to provide private security services, after the certification has expired will be subject to penalties as provided for in ORS 181.991.

(9) Any private security provider who is arrested or charged criminally must notify the provider's employer and the Department of that fact not later than 48 hours after the arrest or charge is filed. Any employer who knows that an employee has been arrested or charged with a crime must notify the Department of that fact not later than 48 hours after the employer acquired knowledge. The initial notification may be by telephone, but must be immediately followed by written notification. The notification must include the specific charges, the county and state where any charges are pending, the investigating agency, and the date of the arrest. Failure to notify the Department may result in suspension of the arrested person's certification or licensure.

(10) The applicant or private security provider must notify the Department or its designated staff within 14 calendar days of any change of address by using Form PS-23 (Private Security Services Provider Change of Information). Executive managers may use the form to advise the Department of the termination of employment, or provide their own list. Under ORS 305.385, a summary of all private security providers and applicants is provided annually to the Oregon Department of Revenue, including name, address and Social Security number.

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

Stat. Auth.: ORS 181.873 - 181.878 & 181.883 - 181.885

Stats. Implemented: ORS 181.873 - 181.878 & 181.883 - 181.885

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 3-2005(Temp), f. & cert. ef. 4-25-05, cert. ef. 5-1-05 thru 10-28-05; DPSST 9-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 4-2007, f. & cert. ef. 2-15-07; DPSST 6-2008, f. & cert. ef. 4-15-08

259-060-0130

Licensing of Executive and Supervisory Manager

(1) Under ORS 181.873(1)(b), it is unlawful for a person to engage in the business of, executive or supervisory manager, or to offer services in such capacities, unless the person has obtained a license in accordance with these rules.

(2) Each business, employer, or entity with a private security professional staff of at least one person must designate one employee who performs the duties of an "Executive Manager", as described in these rules, to obtain an Executive Manager license. An employer may obtain licensure for more than one executive manager. Any person who has responsibility and authority in supervising persons providing security services, who has not been licensed as an Executive Manager, must obtain a Supervisory Manager license. This provision applies to any business, employer or entity that provides private security services within this state, regardless of whether the business, employer or entity is located in or out of this state.

(a) In the event contract private security services are utilized, and the business or entity is not itself engaged in providing private security services, or engaging employees in private security services, there is no requirement for that business or entity to obtain a license under these rules.

(b) Issuance of an executive manager or supervisory manager license requires that the applicant meet the qualifications set forth in OAR 259-060-0020. This license authorizes the holder to distribute temporary work permits to private security professionals. A temporary work permit will not be issued for armed private security applicants. The executive manager or supervisory manager must review each application for completeness and criminal history, prior to mailing. DPSST must deny certification for applicants with certain convictions, as outlined in OAR 259-060-0020. Fees are not refundable.

(3) The requirements for licensing as an executive manager or supervisory manager are as follows:

(a) Compliance with the minimum standards for licensing under OAR 259-060-0020;

(b) Successful completion of training required under OAR 259-060-0060, including successful completion of the written examination and orientation under OAR 259-060-0065, and 259-060-0075. The training orientation specific to managers is required; and

(c) Submission to the Department of the completed application packet as required under subsection (6) of this rule, together with the appropriate fees. Because the manager training is completed through self-study, the training manual must be mailed to the manager by the Department upon receipt of the Form PS-1 (Application for Licensure or Certification of Private Security Providers), the fingerprint packet and the appropriate fees. To complete the application process, the manager must complete the written examination and attend the mandated manager orientation. Licensure as a manager does not allow the manager to provide private security services as a professional; the appropriate training course must be completed in order to do so.

(4) The application packet for licensure as an executive manager or supervisory manager must include:

(a) A completed Form PS-1 (Application for Licensure or Certification of Private Security Services Providers);

(b) A completed Form PS-4 (Affidavit of Person Rolling Fingerprints) and fingerprint cards, sealed in a tamper-proof bag;

(c) A completed Form PS-20 (Temporary Work Permit), if the manager-designate qualifies for pre-training employment under the provisions of sub-section (11) in this rule.

(5) The applicant must submit the nonrefundable applicable fee to the Department or its designated staff, along with the application packet.

(6) The completed application packet must be mailed to the Department prior to the performance by the applicant of any services as an executive manager or supervisory manager.

(7) Renewal of licensure must occur every two years subject to the following conditions:

(a) The license holder must complete and submit Form PS-21 (Renewal of Private Security Licensure or Certification). Completion of a biennial four-hour refresher course is required under OAR 259-060-0080(1)(a).

(b) The applicant must submit the nonrefundable renewal fee to the Department or its designated staff.

(c) The renewal documents must be received by the Department not more than 90 days prior to the expiration of the current license.

(d) Failure to comply with renewal requirements will result in the expiration of the license as provided for in OAR 259-060-0120(8)(d). Managers with expired licensure are not eligible to perform security services until a new, complete application and fees are submitted to the Department, along with a \$25.00 late submission penalty fee. New manager orientation training will also be required.

(8) During the two-year certification period, in the event of a staff change of executive manager(s) or supervisory manager(s), the company or entity must select a replacement manager, and must cause that person to apply for licensure as an Executive Manager or Supervisory Manager, as required. The company or entity must immediately notify the Department of the staff change on Form PS-23 (Change of Information). The new manager must complete a four-hour management orientation.

(9) A licensed manager who performs private security services must complete the full training required for that classification and be certified.

(10) An applicant or person may hold a temporary work permit as an executive manager or supervisory manager for up to 120 days under the following conditions:

(a) A company or entity has newly established a private security services workforce over whom the person will command, or an existing licensed executive or supervisory manager is suddenly unable to perform such duties due to death, termination or other unexpected circumstance.

(b) The person seeking a temporary work permit as an executive manager or supervisory manager holds at least one of the following qualifications:

(A) Certified in this state as a private security professional; or

(B) Holds a management position that, in the chain of supervision, is equal to, or higher than, the vacated licensed position.

(c) A Form PS-20 (Private Security Services Provider Temporary Work Permit) must be completed and forwarded to the Department or its designated staff prior to performing any duties as an executive manager or supervisory manager relating to providing security services in this state, and is subject to the conditions found under OAR 259-060-0120(1)(b)(G)-(J).

(d) If the person seeking a temporary work permit as an executive manager or supervisory manager has not completed each step of the application process, the person may not have oversight responsibilities for private security services or staff, and the business or entity may not provide private security services.

(e) The intent of the Form PS-20 provision is to allow a business or entity to employ an executive manager or supervisory manager to provide private security services while the recruitment is in process.

(f) An executive manager or supervisory manager may also be temporarily assigned to provide private security services under the provisions of OAR 259-060-0120(1)(a).

(11) The Department or its designated staff may administratively terminate the application process as provided for in OAR 259-060-0120(1)(c)(A)-(D).

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

Stat. Auth.: ORS 181.873 - 181.878 & 181.883 - 181.885

Stats. Implemented: ORS 181.873 - 181.878 & 181.883 - 181.885

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 6-2008, f. & cert. ef. 4-15-08

259-060-0135

Certification of Private Security Instructors

(1) The Department or its designated staff must certify instructors deemed qualified to teach in any required private security professional training courses.

(2) Certified Private Security Instructor

(a) The minimum requirements for certification as an instructor are as follows:

(A) Compliance with the minimum standards for certification under OAR 259-060-0020;

Chapter 259 Department of Public Safety Standards and Training

(B) Successful completion of training and examination required under OAR 259-060-0060, 0065 and 0075; and instructor training delivered by the Department or its designated staff;

(C) High school diploma or GED;

(D) Minimum of three years work experience in the private security services, military police, or law enforcement fields; and

(E) Compliance with the age requirements under the Private Security Service Providers Act;

(b) A certified instructor is authorized to:

(A) Provide the eight-hour "basic" instruction based on the approved or accredited course content and materials provided by the Department or its designated staff as specified in OAR 259-060-0060;

(B) Provide the four-hour assessment module based on the approved or accredited private security professional course content, materials and assessment criteria provided by the Department or its designated staff as specified in OAR 259-060-0075;

(C) Provide the four-hour biennial refresher training and testing based on the approved or accredited private security professional course content and materials provided by the Department or its designated staff as specified in OAR 259-060-0080; and

(D) Administer the applicable written examination(s) as specified in OAR 259-060-0065.

(c) The certified instructor must conduct all instruction, training and testing required by the Department in accordance with these rules. The instructor must provide to the applicant the fully-completed original Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results), sealed in a tamper-proof bag, if the applicant successfully completes all requirements. Additionally, the instructor must provide the applicant with a Form PS-6 colored carbon copy, and the instructor will retain the other carbon copy in the instructor's files for the life of the training (two years).

(3) Certified Private Security Firearms Instructor

(a) The minimum requirements for certification as a private security firearms instructor are as follows:

(A) Compliance with the minimum standards for certification under OAR 259-060-0020;

(B) Successful completion of training required under OAR 259-060-0060 and 259-060-0075, including the successful completion of the written examination and orientation required under OAR 259-060-0065;

(C) Compliance with the firearms restriction requirements of OAR 259-060-0020(5); and

(D) Hold one or more of the following:

(i) A current certification through the National Rifle Association Law Enforcement Firearms Instructor Development School;

(ii) A current certification as a firearms instructor through the Federal Law Enforcement Training Center;

(iii) A current certification from a Department-certified law enforcement or criminal justice firearms instructor course;

(iv) A current certification as a firearms instructor through the Federal Bureau of Investigation; or

(v) A current certification as a private security firearms instructor through the Washington Criminal Justice Training Center.

(b) A certified private security firearms instructor is authorized to:

(A) Provide firearms instruction based upon curriculum approved by the Board, and administer firearms marksmanship qualifications as provided by the Department, or its designated staff, as specified in OAR 259-060-0070;

(B) Provide the annual firearms classroom instruction and firearms requalification as specified in OAR 259-060-0085;

(C) Administer required armed written examination as specified in OAR 259-060-0065; and

(D) Terminate the firearms instruction or firearms marksmanship qualification if, in the instructor's opinion, the applicant is unfit to proceed, taking into consideration the applicant's poor judgment, unsafe practices, abnormal behavior, or other relevant factors. The instructor must immediately notify the applicant of the reason for termination of training and must also notify the Department or its designated staff within 48 hours in writing, using Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results).

(c) A certified private security firearms instructor must conduct all instruction, training, qualification and testing required by the Department in accordance with these rules. Only the certified instructor

who conducts the training will sign the Form PS-6. The instructor must provide to the applicant the fully-completed original Form PS-6, sealed in a tamper-proof bag, if the applicant successfully completed all requirements. Additionally, the instructor must provide the applicant with a Form PS-6 colored carbon copy, and the instructor will retain the other carbon copy in the instructor's files for the life of the training (two years).

(4) Applications for instructor certification must be submitted on Form PS-1 (Application for Licensure or Certification of Private Security Services Provider), and must be accompanied by fees, a detailed resume of the applicant's qualifications, including a copy of a firearms instructor certificate (if applicable), and a fingerprint packet completed and sealed in compliance with OAR 259-060-0120(5)(b).

(5) If instructor certification is denied, the requesting applicant must be notified in writing and advised of the reasons for denial.

(6) Review of instructor certification may be initiated upon the request of a private security provider, the Department or its designee, or other reliable source.

(7) Instructor certification is valid for two years. The certification will be renewed upon:

(A) Payment of a nonrefundable renewal fee; and

(B) Proof of at least eight hours of course-work relating to any of the specific subjects being taught or generally improving instructor skills; and

(C) Successful completion of an instructor refresher course delivered by the Department or its designee.

(8) Failure to comply with renewal requirements shall result in the expiration of certification. Reapplication after expiration can be conducted as provided for in OAR 259-060-0120(8)(d).

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

Stat. Auth.: ORS 181.878 & 181.883

Stats. Implemented: ORS 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 11-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 4-2007, f. & cert. ef. 2-15-07; DPSST 6-2008, f. & cert. ef. 4-15-08

259-060-0150

Process for Adding Licenses or Certificates

Applicants seeking to add a license or upgrade to an armed private security professional will be charged an administrative fee, as provided for in OAR 259-060-0500. A criminal history check must be conducted on each applicant and certain criteria must be met by the applicant. The expiration date of the certificate or license remains the same; armed applicants may wish to pay the full fee for an armed certification to obtain a full two years on their new armed certificate. To add a license or certificate, the applicant must:

(1) Submit a completed Form PS-1 (Application for Licensure or Certification of Private Security Services Provider) to the Department with the specific request marked, together with the nonrefundable fee; and

(2) Meet the following criteria:

(a) To add or change a private security professional certification (i.e., unarmed, armed, alarm monitor) the applicant must obtain required training from a certified private security or public safety instructor; then submit a completed Form PS-6 (Affidavit of Instructor and Private Security Provider Testing Results), sealed in an approved tamper-proof bag, together with the required fee and a completed Form PS-23 (Change of Information). A copy of the Form PS-23 must be carried on the person while performing private security services, until a new certificate is received. Because the unarmed training is a prerequisite to the armed certification, it is not necessary for an armed applicant to apply for or hold both certificates.

(b) To add a private security instructor certification, the applicant must submit proof of qualifications as specified in OAR 259-060-0135(2)(a), together with updated personal information, completion of the DPSST instructor orientation and the required fee. Certified private security firearms instructors may add this certification without charge by completing the DPSST instructor orientation.

(c) To add an armed private security instructor certification, the applicant shall submit proof of qualifications as specified in OAR 259-

060-0135(3)(a), together with updated personal information, completion of the DPSST armed instructor orientation and the required fee.

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

Stat. Auth.: ORS 181.878 & 181.880

Stats. Implemented: ORS 181.873, 181.875, 181.878 & 181.880

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 11-2007, f. & cert. ef. 10-15-07

259-060-0300

Denial/Suspension/Revocation

(1) Grounds for Denying, Suspending or Revoking the Certificate of a Private Security provider; Process for Requesting Board Waiver:

(a) The Department may suspend, revoke or deny a license or certificate after written notice, and a hearing, if requested, based upon a finding that:

(A) The applicant or holder of the certificate or license falsified any information submitted on the application for certification or licensing or on any documents submitted to the Department or falsified any documents pertaining to Private Security certification or licensing;

(B) The license holder or applicant for licensure has violated the temporary assignment provisions of OAR 259-060-0120(1);

(C) The applicant or holder of the certificate or license has failed to timely submit properly completed forms, documentation or fees required under these rules;

(D) The applicant or holder of the certificate or license has violated the provisions of the Private Security Service Providers Act or these administrative rules or has failed to perform any acts required by these rules.

(b) The Department must revoke or deny a license or certificate after written notice and a hearing, if requested, based upon a finding that:

(A) The applicant or holder of the license or certificate at any time fails to meet the criminal history requirements of OAR 259-060-0020(4);

(B) The holder of an armed security officer or firearms instructor certificate, or an applicant for such a certificate, fails to meet the minimum qualifications and requirements set forth in OAR 259-060-0020(5);

(C) The holder of an armed private security professional or firearms instructor certificate, or an applicant for such, a certificate, suffers any disqualification, condition or circumstance which, under federal law or the law of this state, would disqualify the person from owning, possessing or purchasing a firearm; or

(c) Pursuant to OAR 259-060-0300(2)(f), the Department may suspend a license or certificate based upon a finding that:

(A) The holder of the certificate or license has been arrested for or charged with any crime listed in OAR 259-060-0020(4);

(B) The holder of the certificate or license has failed to successfully complete or timely report the annual or biennial refresher training and examination(s) required in OAR 259-060-0080; or

(C) The holder of the armed private security professional certification has failed to successfully complete or timely report the annual firearms marksmanship requalification required under OAR 259-060-0085.

(2) Denial, Suspension and Revocation Procedure:

(a) Employer Request: When the employer of the private security provider requests that the person's certification or licensure be denied, suspended or revoked, the request must be submitted in writing to the Department or its designated staff, stating the reason for the requested suspension, revocation or denial and all factual information supporting the request.

(b) Department Initiated Request: Upon receipt of factual information from any source, and pursuant to ORS 181.878, the Department or its designated staff may request that the person's certification or licensure be suspended, revoked or denied.

(c) Department Staff Review: The Department or its designated staff will review the request and the supporting factual information to determine if the request for suspension, revocation or denial meets statutory and administrative rule requirements. If the reason for the request does not meet the statutory and administrative rule require-

ments for suspension, revocation or denial, the Department's designated staff shall so notify the requestor. If the reason for the suspension, revocation or denial meets statutory and administrative rule requirements, but is not supported by adequate factual information, the Department or its designated staff will request further information or conduct its own investigation of the matter.

(d) Initiation of Proceedings: The Department's designated staff will determine if the reason for suspension, revocation or denial and supporting factual data meet the statutory and administrative rule requirements and so advise the Department or its designated committee.

(e) Contested Case Notice: The Department or its designated staff will prepare a "Contested Case Notice" in accordance with OAR 137-003-0001 of the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department or its designated staff must serve a copy of the "Notice" on the person whose certification or licensure is being affected.

(f) Emergency Suspension Order: Notwithstanding subsection (e), the Department may immediately suspend a person upon a report that a person has been arrested for, or charged with, any crime listed in OAR 259-060-0020(4). The report may be received in any form and from any source.

(g) An Emergency Suspension Order must be in writing. The order may be issued without prior notice to the individual and without a prior opportunity for a contested case hearing. An Emergency Suspension Order must:

(A) Generally describe the acts of the person and any circumstances that would be grounds for an Emergency Suspension Order under this rule; and

(B) Identify the person at the Department whom the individual may contact and who is authorized to make recommendations regarding issuance of the order.

(h) When the Department issues an Emergency Suspension Order, it must be served on the individual either personally or by registered or certified mail and must contain the following information:

(A) The effective date of the Emergency Suspension Order;

(B) A statement of findings detailing the specific acts or omissions of the person that violate applicable laws or rules and which serve as the grounds for revocation or suspension;

(C) A reference to the sections of the statutes and rules involved;

(D) A statement indicating the individual has the right to request a hearing to contest the Emergency Suspension Order;

(E) A statement indicating the individual will have waived their right to a hearing regarding the Emergency Suspension Order if the request for a hearing is not received by the Department within 20 calendar days of the date of notice of the Emergency Suspension Order; and

(F) A statement indicating a hearing will be held as soon as is prudent and practicable if a timely request for a hearing is received.

(i) If the individual submits a timely request for a hearing, the Department will hold a hearing on the Emergency Suspension Order as soon as is prudent and practicable.

(A) The Department may combine the hearing on the Emergency Suspension Order with any underlying proceeding affecting the license or certificate.

(B) The sole purpose of the hearing will be to determine whether the individual was charged with or arrested for a crime listed in OAR 259-060-0020(4). Upon a showing that an individual was not charged with or arrested for a crime in OAR 259-060-0020(4), the suspension of the individual's certificate or license will be immediately lifted; otherwise, the suspension will remain in effect until final disposition of the charges or arrest.

(j) Response Time:

(A) Revocation or Denial: If the Department is seeking revocation or denial of a license or certificate, a party who has been served with the "Contested Case Notice" must submit a written request for a hearing to the Department within 60 calendar days from the date of mailing or personal service of the notice.

(B) Suspension: If the Department is seeking suspension of a license or certificate, a party who has been served with an Emergency Suspension Order must submit a written request for a hearing to the Department within 20 calendar days from the date of mailing or personal service of the notice. The Department may extend the time

allowed for submission of the written request for a hearing for up to 30 calendar days upon request.

(k) Default Order: If a timely request for a hearing is not received by the Department, the Contested Case Notice or Emergency Suspension Order will become a final order revoking, suspending or denying certification pursuant to OAR 137-003-0075(5).

(l) When the Department revokes a certification or denies an applicant's license or certificate, an individual is ineligible to reapply for future certification or licensure for a period of four (4) years from the date of final Department action or order. Any applicant reapplying for certification or licensure must reapply in accordance with the provisions of the Private Security Service Act.

(m) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Hearings Officer Panel in accordance with OAR 137-003-0075(5).

(n) Waiver Request: It is the responsibility of the Board to set the standards, and of the Department to uphold them in such a manner so as to ensure the highest levels of professionalism and discipline. Those standards must be upheld at all times, unless there is a specific finding of substantial and compelling reason that demonstrates that neither the safety of the public nor the respect of the profession will be compromised by a waiver. Certain criminal convictions will not qualify for waiver request, as identified in OAR 259-060-0020(4). In the event that a waiver of denial, suspension or revocation is granted, the Board's decision must be in writing. The waiver request will suspend timelines for a contested case hearing until an order granting or denying the waiver has been issued. The waiver process applies only to the petitioners who have been certified and licensed under the Private Security Service Providers Act of 1995 on or before October 23, 1999.

(A) The Policy Committee may consider limited waivers to the Department's notice of intent to deny, suspend or revoke certification or licensure, and forward a recommendation to the Board, based upon:

(i) The petitioner having been licensed or certified under the Private Security Service Providers Act of 1995 on or before October 23, 1999;

(ii) The length of time that has elapsed between petitioner's disqualifying conviction and application to the Department is substantial and in the case of a lifetime disqualifier, the length of time exceeds 20 years;

(iii) Letters of reference attesting to good moral and ethical fitness;

(iv) The petitioner's age at the time of the conviction;

(v) Absence of other criminal convictions; and

(vi) A written explanation of any substantial or compelling reasons, including but not limited to mitigating circumstances of the arrest.

(B) It is the responsibility of the petitioner to request a waiver within 20 calendar days of the Department's notice of denial or revocation.

(C) It is the responsibility of the petitioner to present to the Policy Committee all information relative to the request for waiver, in writing, not less than 15 days prior to the next regularly scheduled Policy Committee meeting. The Policy Committee will make its recommendation to the Board, following review of those documents.

Stat. Auth.: ORS 181.878, 181.882 & 181.885

Stats. Implemented: ORS 181.878 & 181.885

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 10-2003(Temp), f. & cert. ef. 6-16-03 thru 12-1-03; DPSST 12-2003, f. & cert. ef. 7-24-03; DPSST 6-2004, f. & cert. ef. 4-23-04; DPSST 5-2005(Temp), f. & cert. ef. 8-3-05 thru 1-1-06; DPSST 10-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06

259-060-0305

Agency Representative in Contested Case Hearings

(1) Subject to the approval of the Attorney General, an officer or employee of this agency is authorized to appear on behalf of the agency in all contested case hearings conducted by this agency.

(2) The agency representative may not make legal argument on behalf of the agency.

(a) "Legal argument" includes arguments on:

(A) The jurisdiction of the agency to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and

(C) The application of court precedent to the facts of the particular contested case hearing;

(b) "Legal argument" does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(A) The application of the facts to the statutes or rules directly applicable to the issues in the contested case;

(B) Comparison of prior actions of the agency in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case; and

(D) The admissibility of evidence or the correctness of procedures being followed.

(3) When an agency officer or employee represents the agency, the presiding officer will advise each representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection. Where such objections involve legal argument, the presiding officer will provide reasonable opportunity for the agency officer or employee to consult legal counsel and permit such legal counsel to file written legal argument within a reasonable time after conclusion of the hearing.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878, 183.341 & 183.457

Hist.: BPSST 3-2000, f. & cert. ef. 8-10-00; DPSST 6-2006, f. & cert. ef. 5-15-06

259-060-0450

Compliance

(1) The Department or its designated staff may cause inspections of records and procedures of security managers, instructors, and private security professionals relating to the minimum employment standards and training standards that are mandated by the Private Security Service Providers Act, as well as those records and procedures which are under the purview of OAR 259-060-0000 to 259-060-0500, in order to verify adherence to and compliance with any applicable rule or statute.

(2) The Department or its designated staff may cause any administrative proceeding and/or court action to be initiated to enforce compliance with the provisions of the Private Security Service Providers Act, and the administrative rules promulgated thereunder.

(3) Scope and authority. Application of a civil penalty includes, but is not limited to, the violations set out in sub-section (5) of this rule.

(a) This rule sets guidelines for civil penalties for violations of the private security laws under ORS 181, and the administrative rules under chapter 259, division 60;

(b) This rule is authorized by ORS 181.870-181.991 and carries out ORS 181.991.

(4) Definitions. For the purposes of this rule:

(a) "Flagrant violation" is:

(A) An act by a provider, contractor, owner or manager who, after being notified of a violation, intentionally continues it;

(b) "Penalty order" is the entry of an administrative order, either:

(A) Assessing a penalty; or

(B) Finding a violation, regardless of whether a penalty is assessed.

(c) "Subsequent violation" is a repeat violation of any statute or rule within a 36-month period following any order for the same violation.

(5) Civil penalty amounts. For non-flagrant violations,

(a) A penalty of no less than \$250 for the first violation and \$500 for subsequent violations shall be charged for each of the following:

(A) Failure by an unarmed private security officer or private security officer-alarm monitor to complete training, apply for certification or obtain a temporary work permit, prior to providing private security services;

(B) Falsification of DPSST-submitted documents by an unarmed private security officer or private security officer-alarm monitor;

(C) Failure of an unarmed private security officer or private security officer-alarm monitor to cease providing private security services upon notice of termination, suspension, denial or revocation;

(D) Failure of an unarmed private security officer or private security officer-alarm monitor to report his or her own arrest.

(b) A penalty of no less than \$500 for the first violation and \$750 for subsequent violations shall be charged for each of the following:

(A) Failure by an armed private security officer to complete training or apply for certification prior to providing private security services;

(B) Falsification of DPSST-submitted documents by an armed private security officer;

(C) Failure of an armed private security officer to cease providing private security services upon notice of termination, suspension, denial or revocation;

(D) Failure of an armed private security officer to report his or her own arrest

(c) A penalty of no less than \$500 for the first violation and \$750 for subsequent violations shall be charged for each of the following:

(A) Failure by a private security unarmed or alarm monitor instructor to complete training or apply for certification, prior to providing private security training;

(B) Falsification of DPSST-submitted documents by a private security unarmed security or alarm monitor instructor;

(C) Failure of a private security unarmed or alarm monitor instructor to cease providing private security training upon notice of termination, suspension, denial or revocation;

(D) Failure of a private security unarmed or alarm monitor instructor to report his or her own arrest;

(E) Failure of a private security unarmed or alarm monitor instructor to instruct the full DPSST-certified curriculum as required by ORS 181.883.

(d) A penalty of no less than \$750 for the first violation and \$1,000 for subsequent violations shall be charged for each of the following:

(A) Failure by a private security firearms instructor to complete training or apply for certification, prior to providing private security training;

(B) Falsification of DPSST-submitted documents by a private security firearms instructor;

(C) Failure of a private security firearms instructor to cease providing private security training upon notice of termination, suspension, denial or revocation;

(D) Failure of a private security firearms instructor to report his or her own arrest;

(E) Failure of a private security firearms instructor to instruct the full DPSST-certified curriculum as required by ORS 181.883.

(e) A penalty of no less than \$1,000 for the first violation and \$1,500 for subsequent violations shall be charged for each of the following:

(A) Failure by a private security manager to complete training or apply for certification, prior to providing private security services, except as provided for in OAR 259-060-0130(11);

(B) Falsification of DPSST-submitted documents by a private security manager;

(C) Failure of a private security manager to cease providing private security services upon notice of termination, suspension, denial or revocation;

(D) Failure of a private security manager to report his or her own arrest, or the known arrest of an employed private security services provider;

(E) Failure of a private security manager to terminate the employment of a private security services provider or applicant whose application has been terminated, or whose certificate has been suspended, denied or revoked, upon notice from the Department to do so.

(F) The employment of private security providers who have not completed the training and application process required under the Private Security Service Providers Act.

(6) Procedures.

(a) Except as provided in section (8) of this rule, a case report of the designated failure to comply and subsequent recommendation of civil penalty shall be forwarded by staff for review by the Advisory Committee on Private Security Services, which in turn, shall forward its recommendation to the Board for final dispensation.

(b) Written notice of the violation of administrative rule or statute shall be served upon the licensee or certificate holder by certified and regular mail, with an opportunity for the licensee or certificate holder to remedy the violation within 14 days of the mailing of the notice,

except for providers who have falsified the criminal history section of an application;

(c) Civil penalties may be lowered from the amount set in this rule, waived where further mitigation is warranted, or resolved by stipulation as provided in section (8) of this rule. Providers who remedy the stated violation and come into compliance without hearing may be assessed half of the penalty provided for in this rule.

(7) Options.

(a) If civil penalties are sought under ORS 181.991 for a continuing flagrant violation of the private security laws or rules, staff shall seek, and the committee shall recommend to the Board on Public Safety Standards and Training, the assessment of \$1,500 per occurrence.

(b) If judicial review of any application of a penalty under this section is requested under ORS 183.480:

(A) No civil penalty shall be sought or assessed for the alleged violation until after the review has been completed and the assessment upheld;

(B) Notwithstanding a request for judicial review, civil penalties can be brought or assessed for failure to comply with other laws or rules that do not involve the matter under review;

(C) The obligation to advise the Department of a judicial review request is on the person charged or about to be charged for the violation.

(8) Resolution by stipulation.

(a) Department staff is authorized to seek resolution by stipulation, subject to acceptance and approval by the Board or Director, if:

(A) The matter is resolved before entry of an order assessing penalty;

(B) The respondent corrects or proceeds to correct all deficiencies itemized by Department staff within the time allowed; and

(C) The penalty amount agreed to is paid and received with the stipulation.

(b) A stipulation shall not be accepted for less than the guideline provided for in this rule if the violation is for failure to obtain a required certificate or license, and such is not obtained as part of the resolution.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 4-2003, f. & cert. ef. 1-22-03; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 11-2007, f. & cert. ef. 10-15-07; DPSST 6-2008, f. & cert. ef. 4-15-08

259-060-0500

License Fees

Payments to the Department are non-refundable, and must be paid by business check, money order, cashier's check or credit card. No personal checks or cash will be accepted. The Department will charge the following fees:

(1) The fee of \$50 for the issuance of each two-year certification as a private security professional.

(2) Appropriate fees must be submitted with each application for a fingerprint criminal history check. These fees are to recover the costs administering the fingerprint check through the Oregon State Police and Federal Bureau of Investigation. An additional fee will be charged for the third submittal of fingerprint cards when rejected for filing by FBI. Current fee schedules for processing fingerprints may be obtained from the Department.

(3) The fee of \$50 for the issuance of a two-year license as a supervisory manager.

(4) The fee of \$250 for the issuance of a two-year license as an executive manager.

(5) The fee of \$80 for the issuance of a two-year certification as a private security instructor.

(6) The fee of \$20 for the issuance of each upgrade, duplicate or replacement card issued.

(7) The late submission penalty fee of \$25 may be added to the fees for recertification if the provider fails to complete certification by the expiration date of the license or certificate. If an applicant provides documented proof, such as payroll data, that he or she has not been employed to provide private security services since the prior certifi-

cation or licensure expired, the late penalty may be waived by the Department's designated staff.

(8) In the event a non-sufficient check is received for payment, an additional \$25 administrative fee will be assessed.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Hist.: PS 1-1997(Temp), f. & cert. ef. 2-24-97; PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 12-2003, f. & cert. ef. 7-24-03; DPSST 3-2005(Temp), f. & cert. ef. 4-25-05, cert. ef. 5-1-05 thru 10-28-05; DPSST 11-2005, f. & cert. ef. 10-14-05; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 6-2008, f. & cert. ef. 4-15-08

259-060-0600

Forms

The Department utilizes the following forms:

(1) PS-1 — Application for Licensure or Certification of Private Security Services Provider.

(2) PS-3 — Private Security Order Forms Sheet.

(3) PS-4 — Affidavit of Person Rolling Fingerprints.

(4) PS-6 — (Affidavit of Instructor and Private Security Provider Testing Results).

(5) PS-7 — Private Security Instructor Evaluation.

(6) PS-8 — Private Security Instructor Proof of Skills Improvement.

(7) PS-9 — Private Security Waiver for Reciprocity.

(8) PS-20 — Private Security Services Provider Temporary Work Permit.

(9) PS-21 — Renewal of Private Security Services Licensure or Certification.

(10) PS-23 — Private Security Services Provider Change of Information.

(11) PS-27 — Private Security Code of Ethics.

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

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Hist.: PS 9-1997, f. & cert. ef. 8-20-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 3-1999(Temp), f. & cert. ef. 3-9-99 thru 9-5-99; BPSST 4-1999, f. & cert. ef. 4-29-99, cert. ef. 9-5-99; BPSST 3-2000, f. & cert. ef. 8-10-00; BPSST 8-2001(Temp), f. & cert. ef. 8-22-01 thru 2-18-02; BPSST 18-2001(Temp), f. & cert. ef. 11-28-01 thru 2-18-02; BPSST 4-2002(Temp), f. & cert. ef. 2-25-02 thru 7-1-02; BPSST 13-2002, f. & cert. ef. 4-30-02; DPSST 6-2006, f. & cert. ef. 5-15-06; DPSST 15-2006, f. & cert. ef. 10-13-06

DIVISION 61

INVESTIGATOR LICENSING STANDARDS AND REGULATIONS

259-061-0005

Definitions

(1) "Administrative Termination" means the Department has stopped the processing of an application due to non-response from applicant or noncompliance with the application requirements or the requirements of these rules."

(2) "Board" means Board on Public Safety Standards and Training.

(3) "Complainant" means any person or group of persons who file(s) a complaint. The Department may, on its own action, initiate a complaint.

(4) "Complaint" means a specific charge filed with the Department that a licensed investigator or candidate thereto, or any person apparently operating as an investigator without a license, has committed an act in violation of ORS Chapter 703 or OAR chapter 259.

(5) "Committee" means the Private Security Policy Committee.

(6) "Continuing Education Guidelines" or "CE Guidelines" refers to the provisions of Oregon Administrative Rule 259-061-0260.

(7) "Department" means the Department of Public Safety Standards and Training.

(8) "Disciplinary Procedure" means all action up to the final resolution of a complaint after the issuance of a "Notice of Intent."

(9) "Educational endeavor that reasonably could be beneficial to the work of the investigator" as used in ORS 703.447(4) means those

educational endeavors that are in compliance with the Department's Continuing Education Guidelines, or are approved by the Private Security Policy Committee.

(10) "Employee," as used in ORS 703.401 to 703.490, means a person who is employed lawfully by an employer. The employer controls the performance of that person; pays the salary, unemployment insurance, and worker's compensation insurance; and has sole authority to fire and control work hours and the conditions of work. "Employee" in this context does not include a person engaged as an independent contractor.

(11) "Expired license": A license is considered expired on the date of expiration. A person may not practice as an investigator with an expired license.

(12) "Hours of experience" means documented clock hours.

(13) "Investigatory work" means any work performed in accordance with ORS 703.401(2).

(14) "Licensee" or "Licensed Investigator", as used in OAR 259-061-0005 through 259-061-0260 means a person licensed as an investigator under ORS 703.430.

(15) "Private investigator" is a licensed investigator who has completed a minimum of 1500 documented clock hours of investigatory work experience or an approved course of study or a combination of work and study as approved by the Department.

(16) "Provisional investigator" is a licensed investigator who has completed fewer than 1500 documented clock hours of investigatory work experience, or an approved course of study, or a combination of work and study as approved by the Department; and who may not employ or supervise other investigators. Under 1997 and 1999 editions of governing statute, this type of investigator was referred to as a "Registered Operative."

(17) "Respondent" means an investigator who is a licensee or candidate for licensure, or any person apparently operating as an investigator without a license, against whom a complaint has been filed.

(18) "Stipulated Agreement" means a written agreement entered into between the Department and a respondent.

(19) "Violation" means a violation of Oregon Revised Statutes or Oregon Administrative Rules as they pertain to the licensing requirements of investigators in the state of Oregon.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0010

Fees

For the purpose of administering the licensing program under ORS Chapter 703.401 through 703.995, appropriate fees shall be submitted to the Department, by applicants for licensure for each of the following categories:

(1) Application:

(a) Private Investigator;

(b) Provisional Investigator.

(2) Licensing:

(a) Private Investigator;

(b) Provisional Investigator;

(c) Inactive License;

(d) Temporary License;

(e) Interim License.

(3) Renewal of Licenses:

(a) Private Investigator;

(b) Provisional Investigator;

(4) Issuance of Identification cards.

(5) Replacement of Card/License.

(6) Late Renewal of License.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0015

Payment of Fees

Fees are due at the time of application. Payments to the department are non-refundable, and must be paid by business check, money order, cashier's check or credit card. A current fee schedule for the private investigator licensing program may be obtained from the department.

NOTE: Make all checks payable to DPSST.
Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 703.401 - 703.995
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06; DPSST 6-2008, f. & cert. ef. 4-15-08

Applications

259-061-0020

Initial and Renewal Applications

(1) Applications must be submitted on Department approved forms pursuant to ORS 703.425. All applicants must disclose on the initial application information required by ORS 703.425, including:

- (a) Social Security Number;
- (b) Home Address and Telephone Number;
- (c) Business Address and Telephone Number;
- (d) Place of Birth;
- (e) Any license, certification or registration. Including:
 - (A) The title or type of such license, certification or registration;
 - (B) The location of the agency issuing such license, certification, or registration;
 - (C) The license, certification or registration number issued;
 - (D) The dates such license, certification or registration was held;

and
(E) All information regarding any revoked license, certification or registration.

(2) All applicants must disclose on the initial and renewal application any information requested, including:

- (a) A statement listing all offenses of which the applicant has been convicted;
- (b) A statement that the applicant is not required to register or be registered as a sex offender under ORS 181.595, 181.596 or 181.597.
- (c) A statement affirming the truth of all information contained in the application;
- (d) A statement listing all complaints, lawsuits, arbitration, mediation, or disciplinary actions regarding investigative activities; and
- (e) A statement listing all claims filed against the investigator's surety bond, credit, or insurance.

(3) Submission of any false information in connection with an application, supporting documentation or attachments for a license or registration may be grounds for discipline, criminal penalty, or civil penalty.

(4) Renewal applications, renewal fees, and support documentation should be received, at a minimum, two weeks prior to, but not more than ninety days prior to, a licensee's expiration date to allow for processing time.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 703.401 - 703.995
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0030

Application Requirements for Licensees with Expired Licenses

Applicants for licensure who were previously licensed in Oregon must provide either:

- (1) Proof of completion of continuing education requirements during or since the last active status period; or
- (2) A written explanation detailing why continuing education requirements were not met during his/her most recent active status period, and a written plan detailing how they will be made up, including a time line. The Department at its discretion may accept the plan in place of completed CE. Not meeting continuing education requirements could be grounds for denial of a license.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 703.401 - 703.995
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0040

Minimum Standards for Licensure

(1) An applicant for licensure as a private investigator must satisfy all license qualifications pursuant to ORS 703.415 and ORS 703.425.

(2) Moral Fitness (Professional Fitness). All private investigators must be of good moral fitness.

(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 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, interview, statement or other documentation for securing licensure, eligibility for licensure, or in the course of conducting business under one's license.

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

(E) Conduct that adversely reflects on his or her fitness to perform as a private investigator. Examples include, but are not limited to: Intoxication while on duty, untruthfulness, failure to fulfill contractual commitments to clients, failure to provide supporting proof of investigative activities and/or services conducted for their clients, fraudulent billing practices, or a history of personal habits off the job which makes the private investigator both inefficient and otherwise unfit to render effective service because of a loss of confidence in the private investigator's ability to perform competently.

(c) If reliable evidence is received by the Board or Department that a private investigator lacks good moral fitness, a rebuttable presumption will be raised that the private investigator does not possess the requisite moral fitness to be a private investigator. The burden will be upon the private investigator to prove good moral fitness.

(3) The Department will conduct a review of any application on which disclosures have been made to determine if a license should be issued pursuant to ORS 703.415(3), 703.450, 703.465.

- (4) Criminal History. An applicant for licensure must not:
 - (a) Have been convicted of a person felony, as defined in the rules of the Oregon Criminal Justice Commission: ORS 162.165 Escape I; ORS 162.185 Supplying Contraband as defined in Crime Categories 6 and 7 (OAR 213-018-0070(1) and (2)); ORS 163.095 Aggravated Murder; ORS 163.115 Murder; ORS 163.115 Felony Murder; ORS 163.118 Manslaughter I; ORS 163.125 Manslaughter II; ORS 163.145 Negligent Homicide; ORS 163.160(3) Felony Domestic Assault; ORS 163.165 Assault III; ORS 163.175 Assault II; ORS 163.185 Assault I; ORS 163.205 Criminal Mistreatment I; ORS 163.207 Female Genital Mutilation; ORS 163.208 Assaulting a Public Safety Officer; ORS 163.213 Use of Stun Gun, Tear Gas, Mace I; ORS 163.225 Kidnapping II; ORS 163.235 Kidnapping I; ORS 153.275 Coercion as defined in Crime Category 7 (OAR 213-018-0035(1)); ORS 163.355 Rape III; ORS 163.365 Rape II; ORS 163.375 Rape I; ORS 163.385 Sodomy III; ORS 163.395 Sodomy II; ORS 163.405 Sodomy I; ORS 163.408 Sexual Penetration II; ORS 163.411 Sexual Penetration I; ORS 163.425 Sexual Abuse I; ORS 163.465 Felony Public Indecency; ORS 163.479 Unlawful Contact with a Child; ORS 163.452 Custodial Sexual Misconduct in the First Degree; ORS 163.525 Incest; ORS 163.535 Abandon Child; ORS 163.537 Buying/Selling Custody of a Minor; ORS 163.547 Child Neglect I; ORS 163.670 Using Child in Display of Sexual Conduct; ORS 163.684 Encouraging Child Sex Abuse I; ORS 163.686 Encouraging Child Sex Abuse II; ORS 163.688, Possession of Material Depicting Sexually Explicit Conduct of Child I; ORS 163.689, Possession of Material Depicting Sexually Explicit Conduct of Child II; ORS 163.732 Stalking; ORS 163.750 Violation of Court Stalking Order; ORS 164.075 Theft by Extortion as defined in Crime Category 7 (OAR 213-018-0075(1)); ORS 164.225 Burglary I as defined in Crime Categories 8 and 9 (OAR 213-018-0025(1) and (2)); ORS 164.325 Arson I; ORS 164.395 Robbery III; ORS 164.405 Robbery II; ORS 164.415 Robbery I; ORS 164.877(3) Tree Spiking (Injury); ORS 166.087 Abuse of Corpse I; ORS 166.165 Intimidation I; ORS 166.220 Unlawful Use of a Weapon; ORS 166.275 Inmate in Possession of Weapon; ORS 1266.385(3), Felony Possession of a Hoax Destructive Device; ORS 166.643 Unlawful Possession of Soft Body Armor as defined in Crime Category 6 (OAR 213-018-0090(1)); ORS 167.012 Promoting Prostitution; ORS 167.017 Compelling Prostitution; ORS 468.951 Environmental Endangerment; ORS 475.984 Causing Another to Ingest a Controlled Substance as defined in Crime Categories 8 and 9 (OAR 213-019-0007 and 0008); ORS 475.986 Unlawful Administration of a Controlled Substance as defined in Crime Categories 5, 8 and 9 (OAR 213-019-0007, 213-019-0008 and 213-019-00011); ORS 609.990(3)(b) Maintaining Dangerous Dog;

ORS 811.705 Hit and Run Vehicle (Injury); ORS 813.010, Felony Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); ORS 830.475(2) Hit and Run Boat; attempts or solicitations to commit any Class A or Class B person felonies, or an equivalent crime with similar elements in another jurisdiction.

(b) Within the 10-year period prior to applying for, or during, licensure, must not:

(A) Have been incarcerated, placed on probation or paroled as the result of conviction of any felony, other than those described in subsection (a) of this section in this, or any other, jurisdiction.

(B) Have been convicted of violating ORS 163.435 (Contributing to the Sexual Delinquency of a Minor), 163.672 (1993 Edition) (Possession of Depiction of Sexual Conduct of a Child), 163.673 (1993 Edition) (Dealing in the Depiction of Sexual Conduct of a Child), 167.007 (Prostitution), 167.062 (Sadomasochistic Abuse or Sexual Conduct in a Live Show), 167.065 (Furnishing Obscene Material), 167.070 (Sending Obscene Material to Minors), 167.075 (Exhibiting An Obscene Performance to a Minor), 167.080 (Displaying Obscene Material to Minors), 167.087 (Disseminating Obscene Material) or an equivalent crime with similar elements in another jurisdiction.

(C) Have been convicted of a person misdemeanor, as defined in the rules of the Oregon Criminal Justice Commission: ORS 162.315 Resisting Arrest; ORS 163.160 Assault IV; ORS 163.187 Strangulation; ORS 163.190 Menacing; ORS 163.195 Recklessly Endanger Another; ORS 163.200 Criminal Mistreatment II; ORS 163.212 Use of Stun Gun, Tear Gas, Mace II; ORS 163.415 Sexual Abuse III; ORS 163.454 Custodial Sexual Misconduct in the Second Degree; ORS 163.465, Public Indecency; ORS 163.467 Private Indecency; ORS 163.476 Unlawfully Being in a Location Where Children Regularly Congregate; ORS 163.545 Child Neglect II; ORS 163.575 Endanger Welfare of a Minor; ORS 163.687 Encouraging Child Sex Abuse III; ORS 163.700 Invasion of Personal Privacy; ORS 163.709 Unlawfully Directing a Laser Pointer; ORS 163.732(1) Stalking; ORS 163.750(1) Violating Court's Stalking Order; ORS 165.572 Interfering with Making a Police Report; ORS 166.065(4) Harassment/Offensive Sexual Contact; ORS 166.155 Intimidation II; ORS 166.385(2) Misdemeanor Possession of a Hoax Destructive Device; ORS 475.986(1)(d) Unlawful Administration of a Controlled Substance; ORS 609.990(3)(a) Maintaining Dangerous Dog; ORS 813.010, Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); attempts or solicitations to commit any Class C person felonies, or an equivalent crime with similar elements in another jurisdiction.

(D) Have been convicted of the following misdemeanors: ORS 162.075 (False Swearing), 162.085 (Unsworn Falsification), 162.145 (Escape III), 162.247 (Interfering with a Peace Officer), 162.295 (Tampering with Physical Evidence), 162.335 (Compounding a Felony), 162.365 (Criminal Impersonation), 162.369 (Possession of False Law Enforcement Identification Card), 162.385 (Giving False Information to Police Officer), 164.045 (Theft II), 164.125(5)(b) (Theft of Services), 164.140 (Criminal Possession of Rented or Leased Personal Property), 164.235 (Possession of Burglar's Tools), 164.255 (Criminal Trespass I), 164.265 (Criminal Trespass while in Possession of a Firearm), 164.335 (Reckless Burning), 164.354 (Criminal Mischief II), 164.369 (Interfering With Police Animal), 164.377(4) (Computer Crime), 165.007 (Forgery II), 165.055(4)(a) (Fraudulent Use of a Credit Card), 165.065 (Negotiating a Bad Check), 166.115 (Interfering With Public Transportation), 166.250 (Unlawful Possession of Firearms), 166.350 (Unlawful Possession of Armor Piercing Ammunition), 166.425 (Unlawful Purchase of Firearm), 167.262 (Adult Using Minor in Commission of Controlled Substance Offense), 471.410 (Providing Liquor to Person under 21 or Intoxicated Person), or an equivalent crime with similar elements in another jurisdiction.

(c) Have been convicted, within the 10-year period prior to applying for, or during, certification or licensure, of a "misdemeanor crime of domestic violence," in this or any jurisdiction. A "misdemeanor crime of domestic violence" means a misdemeanor under the law of any jurisdiction involving the use or attempted use of physical force, or threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is co-habiting with or has co-habited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or a guardian of the victim.

(d) Have been convicted of a misdemeanor or felony involving the unlawful use, possession, delivery or manufacturing of a controlled substance, or a misdemeanor or felony of similar elements, in this or any jurisdiction: 475.525 (Sale of Drug Paraphernalia), 475.991 (Unlawful Delivery of Imitation Controlled Substance), 475.992 (Prohibited Acts, Manufacturing and Delivering), 475.995 (Distribution to Minors), 475.999 (Manufacturing or Delivering of a Controlled Substance within 1,000 feet of School), or an equivalent crime with similar elements in another jurisdiction.

(e) Have been required to register or be registered as a sex offender under ORS 181.595, 181.596 or 181.597.

(f) Have been convicted, within the seven-year period prior to applying for, or during, certification or licensure, of the following misdemeanors, or a misdemeanor of similar elements, in this or any jurisdiction: 164.043 (Theft III), 164.125(5)(a) (Theft of Services), 162.375 (Initiating a False Report), 166.240 (Carrying of Concealed Weapons), or an equivalent crime with similar elements in another jurisdiction.

(5) Failure to disclose a criminal conviction, on an application for licensure, of any Misdemeanor or Felony crime is grounds for denial, suspension or revocation of a license, and may include criminal or civil penalties.

(a) Department Staff Review: The Department or its designated staff shall review the disclosure and shall request further information or conduct its own investigation of the matter. If there is grounds for a suspension, revocation or denial based on the statutory and administrative rule requirements, the department shall notify the applicant or license holder in writing.

(b) Initiation of Proceedings: The Department's designated staff shall determine if the reason for suspension, revocation or denial and supporting factual data meet the statutory and administrative rule requirements and so advise the applicant or license holder.

(c) Contested Case Notice: The Department or its designated staff shall prepare a "Contested Case Notice" in accordance with OAR 137-003-0001 of the Attorney General's Model Rules of Procedure. The Department or its designated staff must serve a copy of the "Notice" on the person whose application or licensure is being affected.

(d) Emergency Suspension Order: Notwithstanding subsection (e), the Department may immediately suspend a person upon a report that a person has been arrested for, or charged with, any crime listed in OAR 259-061-0040(4). The report may be received in any form and from any source.

(e) An Emergency Suspension Order must be in writing. The order may be issued without prior notice to the individual and without a prior opportunity for a contested case hearing. An Emergency Suspension Order must:

(A) Generally describe the acts of the person and any circumstances that would be grounds for an Emergency Suspension Order under this rule; and

(B) Identify the person at the Department whom the individual may contact and who is authorized to make recommendations regarding issuance of the order.

(f) When the Department issues an Emergency Suspension Order, it shall be served on the individual either personally or by registered or certified mail and must contain the following information:

(A) The effective date of the Emergency Suspension Order;

(B) A statement of findings detailing the specific acts or omissions of the person that violate applicable laws or rules and which serve as the grounds for revocation or suspension;

(C) A reference to the sections of the statutes and rules involved;

(D) A statement indicating the individual has the right to request a hearing to contest the Emergency Suspension Order;

(E) A statement indicating the individual will have waived their right to a hearing regarding the Emergency Suspension Order if the request for a hearing is not received by the Department within 20 calendar days of the date of notice of the Emergency Suspension Order; and

(F) A statement indicating a hearing will be held as soon as is prudent and practicable if a timely request for a hearing is received.

(g) If the individual submits a timely request for a hearing, the Department will hold a hearing on the Emergency Suspension Order as soon as is prudent and practicable.

(A) The Department may combine the hearing on the Emergency Suspension Order with any underlying proceeding affecting the license or certificate.

(B) The sole purpose of the hearing will be to determine whether the individual was charged with or arrested for a crime listed in OAR 259-061-0040(4). Upon a showing that an individual was not charged with or arrested for a crime in OAR 259-061-0040(4), the suspension of the individual's certificate or license will be immediately lifted; otherwise, the suspension will remain in effect until final disposition of the charges or arrest.

(h) Response Time:

(A) Revocation or Denial: If the Department is seeking revocation or denial of a license or certificate, a party who has been served with the "Contested Case Notice" must submit a written request for a hearing to the Department within 60 calendar days from the date of mailing or personal service of the notice.

(B) Suspension: If the Department is seeking suspension of a license or certificate, a party who has been served with an Emergency Suspension Order must submit a written request for a hearing to the Department within 20 calendar days from the date of mailing or personal service of the notice. The Department may extend the time allowed for submission of the written request for a hearing for up to 30 calendar days upon request.

(i) Default Order: If a timely request for a hearing is not received by the Department, the Contested Case Notice or Emergency Suspension Order will become a final order revoking, suspending or denying certification pursuant to OAR 137-003-0075(5).

(j) When the Department revokes a certification or denies an applicant's license, an individual is ineligible to reapply for future certification or licensure for a period of three (3) years from the date of final Department action or order. Any applicant reapplying for licensure must reapply in accordance with the provisions of ORS 703.401-703.490

(k) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Hearings Officer Panel in accordance with OAR 137-003-0075(5).

(6) A denial or revocation of a license pursuant to ORS 703.450(4) will cause the denial, suspension, or revocation of all licenses administered by the Department.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 703.401 - 703.995
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06; DPSST 7-2008(Temp), f. & cert. ef. 5-15-08 thru 10-16-08; DPSST 12-2008, f. & cert. ef. 7-15-08

259-061-0050

Bonds and Letters of Credit

(1) Applications for licensure must be accompanied by proof of a minimum \$5000:

(a) Corporate surety bond completed on a Department approved form; or

(b) An irrevocable letter of credit issued by a commercial bank as defined in ORS 706.005.

(2) Bonds and Letters of Credit must have the applicant's name listed as principal;

(3) A bond will not be valid until filed with the Department and the investigator is licensed with the Department in accordance with ORS Chapter 703;

(4) A bond will not be valid for purposes of licensure in accordance with ORS Chapter 703 unless filed with the Department within sixty (60) days of the signature date on the bond;

(5) An irrevocable letter of credit submitted pursuant to ORS Chapter 703, must be approved by the Department prior to issuance of a license.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 703.401 - 703.995
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0055

Errors and Omissions Insurance

(1) Any licensed investigator who does not have a current surety bond or irrevocable letter of credit on file with the Department:

(a) Is required to notify the Department if his or her errors and omissions insurance policy is cancelled or lapses for any reason;

(b) Notification must be given to the Department within seven days of such cancellation or lapse;

(2) If a licensed investigator plans to cancel an errors and omissions insurance policy and does not have a current surety bond or irrevocable

letter of credit on file with the Department, he or she must give 30 days notice for any such intended cancellation.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 703.401 - 703.995
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0060

Photographs for Identification

(1) Applications for an investigator's initial or renewal license must be accompanied by two (2) identical color photographs taken of the applicant within the previous six months of filing the application;

(2) The size requirements of the photographs must be in compliance as outlined on the application form. The applicant's head in the photo must not be larger than 1" wide and 1.25" high;

(3) The applicant's face must be clearly visible and free from shadows or other viewing obstacles;

(4) If a replacement identification card is needed, 2 new, identical photographs will be required. Photographs that do not meet the above requirements may be returned to the applicant and delay the application process. Photocopies will not be accepted.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 703.401 - 703.995
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0070

Fingerprint ID Cards

(1) Applications for licensure must be accompanied by two complete sets of fingerprints.

(2) Fingerprints must be submitted on an FBI standard applicant fingerprint card, Form FD258.

(3) Fingerprints must be clear as outlined in the instructions on the back of the fingerprint card;

(4) Affidavit and bag.

(5) Cards rejected by the state police or FBI may be returned or resubmitted. An additional fee will be charged for the third submittal occurring after the second rejection.

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

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 703.401 - 703.995
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0080

References

(1) Applications for licensure must be accompanied by three (3) professional letters of reference, none of which may be from a person who is related to the applicant by blood or marriage.

(2) Professional letters of reference may be utilized to help show that the applicant fulfills the experience requirement pursuant to ORS 703.425(2)(d).

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 703.401 - 703.995
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0090

Review of Application Materials

The Department will review all application materials for completeness and may:

(1) Upon written notice from the Department to the applicant, administratively terminate the application for any of the following reasons:

(a) The Department has reason to believe that a person with the applicant's name and birth date has committed an act that constitutes grounds for denial of a license under ORS 703.465. The termination of an application due to a criminal conviction disqualification is subject to the contested case hearing procedures set forth in ORS 703.470

(b) The application or any required documentation is incomplete or the Department has been unable to verify application information to its satisfaction due to non-response or non-compliance of the applicant.

(c) Applicant has violated any administrative rule or condition imposed by ORS or OAR concerning the licensure and conduct of a Private Investigator or applicant as such.

(d) The fingerprint cards of applicant have been rejected and returned by the Oregon State Police or Federal Bureau of Investigations.

(2) Applicants who provide false information to the Department, or who omit information pertaining to OAR 259-061-0040 on an application or required departmental form, shall be disqualified from reapplying for a period of three (3) years.

(3) The Department or its designated staff may administratively terminate the application process if the Department is unable to complete the certification process due to non-response or non-compliance of the applicant after exhausting the following efforts:

(a) A letter shall be mailed by the Department to the applicant, and the last known mailing address of the applicant, identifying the deficiencies in the application process.

(b) The applicant shall have 21 calendar days from the date of mailing to notify the Department that the deficiencies are corrected. The Department may, in its discretion, elect to extend the time for compliance upon good cause shown by the applicant or its manager.

(c) If the Department is unable to determine a current address for the applicant, or if the applicant does not respond and correct the deficiencies within 21 calendar days, or such additional time authorized by the Department, the Department shall list the applicant's status as "administratively terminated." The Department shall notify the applicant at his or her last known address, that the Department has administratively terminated the application process.

(4) Once the application process has been administratively terminated, the applicant can reapply at any time by submitting a new completed application and appropriate fees.

Note: Applicants who have been denied, revoked or suspended for any reason may not reapply for licensure for a period of 3 years from the date of final action.
Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 703.401 - 703.995
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06; DPSST 8-2008(Temp), f. & cert. ef. 5-15-08 thru 10-16-08; DPSST 12-2008, f. & cert. ef. 7-15-08

Exam

259-061-0095

Administration of the Exam

(1) The Department will adopt a test of professional investigator competency.

(2) Department staff or department approved designee will proctor the exam at a time and place established by staff or the designee.
Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0100

Exam Results

(1) The minimum passing score for the exam is 86%.

(2) The exam may be administered to an applicant no more than three consecutive times. If the applicant does not pass the exam on the third attempt, the applicant must wait one year from the date the last exam was taken to re-take the exam.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 703.401 - 703.995
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0110

Temporary License

(1) A person licensed as an Investigator in another jurisdiction may be licensed as a temporary investigator in the state of Oregon if:

(a) The person is licensed or certified to practice as an investigator in another state or jurisdiction,

(b) The certification or licensing standards of the other state or jurisdiction meet or exceed the standards for achieving a Provisional License in the state of Oregon, including a criminal background check.

(c) The person pays a non-refundable temporary license fee.

(d) The Department has received the application packet for Temporary Licensure.

(2) The person shall provide to the Department a copy of the authorizing states statutory requirements for private investigators, demonstrating that the person has undergone a criminal history background check. Additionally, the person shall provide a copy of the held certification or license issued by the authorizing jurisdiction and sub-

mit a Department approved application requesting a Temporary License. The Application form is a triplicate form; the original and one copy shall be mailed to the Department, one copy shall be retained by the investigator. The investigator's copy shall be carried on the person at all times while performing investigative services in this state. It shall be presented to any law enforcement officer upon demand and shall be displayed to any other person upon reasonable request.

(3) The Temporary License application packet must be mailed to the Department on or before the first day the person performs investigatory services in Oregon.

(4) The Temporary License shall be in effect for 90 days from the date the complete application and fees are received.

(5) The intent of this provision is to allow out-of-state investigators to temporarily conduct lawful business in this state.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0120

Interim Investigators License

(1) An employer, an attorney, or a private investigator licensed under ORS 703.430 may request an Interim Investigator's License for an applicant whose application for licensure as a Private or Provisional investigator is being processed by the Department. The Interim License allows the applicant to perform investigatory services within this state for a period of time not to exceed 120 days under the following conditions:

(a) The applicant has never been convicted of, pled guilty or no contest to or forfeited security for a crime;

(b) The applicant has submitted all required application materials, paid required fees, and passed the required exam;

(c) The employer has completed and signed the applicable portions of the Interim License request, affirming the above requirements have been met; and

(d) The Interim License request must bear a postmark on or before the first day the applicant performs investigative services.

(2) If an applicant has not completed each step of the application process, the applicant shall not perform investigatory services.

(3) The intent of this provision is to allow an employer or attorney or private investigator to legally deploy a private or provisional investigator, while the application for licensure is being processed.

(4) The Interim License will be valid no longer than 120 days or, in any event, shall end upon written notice from the Department to the applicant that the License has been administratively terminated under OAR 259-061-0090.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0130

Copying and Distribution of the Exam

(1) No person, school, association or any other entity is authorized to copy or distribute any exam administered by the Department without prior written authorization;

(2) Applicants who take the exam must not disclose to anyone or any entity the contents of the exam including the exam questions and answers.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

Qualifications

259-061-0140

Educational Substitutes for Experience

(1) Completion of a related course of study at an educational institution licensed or approved by a State Department of Education or other State approving agency, and approved by the Department may be substituted for up to 500 hours of the required work experience. Correspondence courses, online courses, or similar coursework will be evaluated on a case-by-case basis.

(2) Educational substitutions applied toward the required work experience will be granted on a three to one (3 to 1) basis and will be

calculated using clock hours spent in class. For example, three hours in class would equate to one hour of allowable experience;

(3) Applicants must provide the Department or its authorized representative verifiable documentation in the form of sealed certified transcripts or an official certificate from the administering institution(s) showing successful completion of study in the related subject matter;

(4) The Department or its authorized representative will review the subject matter of the applicant's education on an individual basis;

(5) Certified transcripts or official copies of certificates presented to the Department in an envelope sealed by the program or institution or instructor and verified as sealed may be accepted directly from the applicant;

(6) If a program or institution granting credit is no longer in business, the Department will accept for review a copy of a certificate of completion or transcript or diploma in the required subject matter and hours. The Department may require additional information to verify the authenticity of such documents.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0150

Provisional Investigator Upgrade to Private Investigator

(1) The license of a Provisional Investigator will be upgraded to a Private Investigator license when the applicant provides verifiable documentation that he or she has performed 1500 hours of investigatory work, or completed a course of study approved by the Department.

(2) The expiration date for a provisional investigator's current license will not change when upgraded to a private investigator unless the upgrade is granted at the time of renewal or a new application and fee is received.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

Inactive Status

259-061-0160

Applying for Inactive Status

(1) A licensed investigator may apply, using a Department-approved form, for inactive status.

(2) A licensee may be granted inactive status upon:

(a) Payment of the inactive license fee; and

(b) Submission of the inactive status request form to the Department.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0170

Applying for Reinstatement to Active Status

(1) A licensee in inactive status may apply to the Department to be reinstated to active status by paying the appropriate license renewal fee and completing the appropriate renewal application form;

(2) A licensee applying for reinstatement to active status must comply with appropriate continuing education requirements as outlined in OAR 259-061-0240.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0180

Maintaining Current Information

Within 10 days of a change, a licensed investigator or applicant for licensure must notify the Department in writing of any changes to name, home address, home phone number, mailing address, business name, business address, or business phone number.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

Code of Professional Ethics

259-061-0190

Code of Ethical Conduct

All licensed investigators must, at all times, observe the rules and requirements of conduct as follows:

(1) Obey all laws in the pursuit of their investigations;

(2) Abide by all provisions of ORS chapter 703 and OAR chapter 259 as they relate to licensed investigators;

(3) Never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence their professional decisions;

(4) Never compromise and shall relentlessly perform their duties in accordance with the law, courteously and appropriately, without fear or favor, malice or ill-will;

(5) Never employ unnecessary or unlawful force or violence;

(6) Maintain each client's confidentiality within the limits of the law;

(7) Be accountable and responsible for their actions;

(8) Accept sole responsibility for their individual standard of professional performance and take every reasonable opportunity to enhance and improve their level of knowledge, competence, and professional integrity;

(9) Actively seek and report the truth in the performance of their professional duties;

(10) Be above reproach in the financial aspects of their relationships with clients;

(11) Keep promises, fulfill commitments and abide by the spirit of agreements made with their clients as well as the letter of agreements with their clients;

(12) Recognize that the credential of a licensed investigator is a symbol of public faith and will accept it as a public trust, to be held only so long as they are true to the ethics of the investigative profession.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

Enforcement and Compliance Procedures

259-061-0200

Compliance

(1) The Department or its designated staff may cause inspections of records and procedures of private investigators or of applicants for licensure, relating to the minimum licensing standards and requirements that are mandated by ORS 703.010–703.995, as well as those records and procedures which are under the purview of OAR Chapter 259 in order to verify adherence to and compliance with any applicable rule or statute.

(2) The Department or its designated staff may cause any administrative proceeding or court action to be initiated to enforce compliance with the provisions of ORS 703.010 – 703.995, and the administrative rules promulgated thereunder.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0210

Filing a Complaint

(1) All complaints must be submitted on a Department approved complaint form, unless the Department grants an exception.

(2) A complainant other than the Department should file the complaint with the Department within one year of knowledge of the incident's occurrence.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0220

Form of Complaints

(1) When a complaint is first made, the staff will provide the complainant with the Department's complaint form. Unless there is an approved exception, this form must be completed by the complainant

and submitted to the Department staff before a complaint is investigated.

(2) Unless otherwise prohibited by law, if the complainant is a client or former client of the respondent, the complainant must sign the waiver of confidentiality allowing the Department access to records and other materials. Refusal by a complainant to comply with these requirements may result in no investigation of the complaint.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 703.401 - 703.995
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0230

Compliance

(1) A preliminary administrative review of the complaint will be made by Department staff to assure there is sufficient information to proceed. Staff will conduct a fact finding preliminary investigation (e.g. data searches and other inquiries).

(2) If sufficient information is determined to support the allegation(s) of the complaint, staff will:

(a) Open and conduct an investigation. Gather relevant information and, in doing so, may submit questions to the respondent and require written answers and copies of related documents. The respondent shall comply within twenty (20) days after the request is mailed, unless the Department authorizes an extension.

(b) Notify Respondent of intended action as authorized by ORS 703.465 and 703.995.

(c) Seek Resolution by Stipulation. Department staff is authorized to seek resolution by stipulation, subject to acceptance and approval by the Director, if:

(A) The matter is resolved before entry of any final order;

(B) The agreement has been entered into freely and voluntarily by respondent;

(C) The respondent corrects or proceeds to correct all deficiencies itemized by Department under the terms of the agreement; and

(D) Any penalty amount agreed to is paid and received with the stipulation.

(E) A stipulation shall not be accepted if the violation is for failure to obtain a required license, and such is not obtained as part of the resolution.

(3) If the Department finds that an allegation is false, all information about the alleged violation and the investigation will be considered confidential and not subject to disclosure pursuant to ORS 192.410 to 192.505.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 703.401 - 703.995
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06; DPSST 7-2008(Temp), f. & cert. ef. 5-15-08 thru 10-16-08; DPSST 12-2008, f. & cert. ef. 7-15-08

Continuing Education

259-061-0240

Continuing Education Requirements for Investigator License Renewal

(1) No Private Investigator license or renewal will be issued by the Department unless the licensee has satisfactorily completed and reported thirty-two (32) continuing education program hours in compliance with the Department's Continuing Education Guidelines. Two (2) of the hours must be in ethics.

(2) No Provisional Investigator license or renewal will be issued by the Department unless the licensee has satisfactorily completed and reported forty (40) continuing education program hours in compliance with the Department's Continuing Education Guidelines. Two (2) of the hours must be in ethics.

(3) A licensed investigator may carry over up to fifteen (15) hours of unused continuing education credit hours to his/her next licensing period.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 703.401 - 703.995
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0250

Inactive License Continuing Education Requirements

(1) The Department will review a licensee's application for re-activation and determine, on a case-by-case basis, the number of

continuing education credit hours required of the licensee prior to approving the active status;

(2) The licensee should be prepared to provide the Department with documentation of the number of hours of continuing education completed during the licensee's most recent active status period.

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480
Stats. Implemented: ORS 703.401 - 703.995
Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06

259-061-0260

Continuing Education (CE) Guidelines

(1) Conferences and Seminars. All Department, county, state, national, international bar, investigator, fire-related, law enforcement, forensic science, medical and mental health associations are approved for continuing education units. The Department will also maintain a list of organizations whose conferences, seminars, and educational meetings have standing approval. Continuing Education from any other organizations will be approved on a case-by-case basis.

(a) Attendance: 1 CE Unit for each hour of speaker presentation.

(b) Lecturing: 4 CE Units for each hour presented. (Limit of 8 units per licensing period.)

(c) Video and Audio Media: 1 CE Unit for each hour of presentation. (Limit 16 units per licensing period.)

(2) Computer Seminars: One (1) CE unit of credit for each hour of attended seminar sessions hosted by computer information sources such as public record vendors; and any other similar approved seminar regarding computer information sources. Seminars on how to operate computers will not be approved for credits. (Limit 12 units per licensing period.)

(3) Educational Institutions: Programming presented in state, nationally or internationally, by licensed or accredited educational institutions including, but not limited to colleges, universities, trade and professional schools, will be granted standing approval when that institution is licensed or approved by the respective State's Department of Education or other State approving agency. Others may be approved on a case-by-case basis.

(a) All accredited or licensed Colleges and Universities:

(A) Attendance: 1 CE Unit per college-level credit hour. (Limit 24 units per licensing period.)

(B) Lecturing: 4 CE Units per hour of presentation. (Limit 8 units per licensing period.)

(b) Online Studies:

(A) Two (2) CE Units per college-level credit hour. (Limit 20 units per licensing period.)

(B) All accredited or licensed trade and professional schools (other than colleges and universities). Course work directly related to investigations, including but not limited to, crash technology; criminal justice; fire science; law; judicial; legal and governmental systems equal one (1) CE Unit per hour of presentation. (Limit 20 units per licensing period.)

(C) All accredited or licensed trade and professional schools (other than colleges and universities). Course work indirectly related to the practice of investigation or business operation instruction. (Limit 12 units per licensing period.)

(4) Publications: The Department reserves the right to approve or disapprove any credit for articles, papers, books, or other publications the individual has authored, or co-authored, relating to the private investigative industry. A maximum of 10 CE Units may be granted per licensing period, with no carry over.

(5) Self-Study:

(a) Correspondence Courses and Online Courses: Two (2) CE units per college-equivalent credit hour; otherwise, Four (4) CE units per course that is related to investigation, completed and passed. (Limit of 4 units per licensing period.)

(b) Books and Manuals: Two (2) CE units for each non-fiction book or professional/technical manual that is related to investigation. All books published by Lawyers and Judges Publishing have standing approval. Other books will be approved on a case-by-case basis. (Limit of 6 units per licensing period.)

(c) Internet study and research: One (1) CE unit for each hour of Independent study and research directly related to the individual investigator's practice not to exceed 4 CE Units per study topic. (Limit 4 units per licensing period.)

(6) Television and Radio Appearances: Four (4) CE units for each half hour appearance on a television or radio program which provides education about investigative topics. Merely appearing or participating in a show does not qualify. The program must qualify as an educational program. (Limit of 8 units per licensing period.)

(7) Department/Board/Committee Meetings: One (1) CE unit will be granted for attending a Board or Committee Meeting hour. No CE units will be granted for attending investigator association board or committee meetings. (Limit of 8 units per licensing period.)

(8) Network Meetings: Two (2) CE units will be granted for approved network meetings. Meetings must be noticed and structured, and proof of attendance that includes topics covered must be supplied to attendees by the person organizing the meeting. A minimum of four investigators must be in attendance. (Limit of 8 units per licensing period.)

(9) Mentoring: A licensed private investigator who provides investigation-related training to another licensed private investigator, or to a licensed provisional investigator, may claim one (1) CE Unit per eight hours of training. (Limit 8 units per licensing period.)

Stat. Auth.: ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.450, 703.460, 703.465 & 703.480

Stats. Implemented: ORS 703.401 - 703.995

Hist.: DPSST 7-2006, f. & cert. ef. 5-15-06; DPSST 7-2007, f. & cert. ef. 5-15-07

DIVISION 70

PUBLIC SAFETY MEMORIAL FUND

259-070-0001

Policies and Objectives

(1) The policies of the Board are to benefit family members or designees who qualify for monetary awards due to the qualifying death or permanent total disability of public safety personnel.

(2) The Board shall award a lump sum amount of \$25,000 to eligible applicants;

(3) The Board may award the following benefits to eligible applicants:

(a) Health and dental benefits;

(b) Mortgage payments;

(c) Higher education scholarships.

Stat. Auth.: ORS 243.950

Stats. Implemented: ORS 243.950

Hist.: BPSST 2-2000(Temp), f. 4-21-00, cert. ef. 4-27-00 thru 10-16-00; BPSST 5-2000, f. & cert. ef. 9-29-00; DPSST 12-2005, f. & cert. ef. 11-15-05; DPSST 20-2008, f. & cert. ef. 10-15-08

259-070-0005

Definitions

(1) "Board" means the Public Safety Memorial Fund Board.

(2) "Department" means the Department of Public Safety Standards and Training.

(3) "Designee" means a person designated under ORS 243.974.

(4) "Fund" means the Public Safety Memorial Fund.

Stat. Auth.: ORS 243.950

Stats. Implemented: ORS 243.950

Hist.: BPSST 2-2000(Temp), f. 4-21-00, cert. ef. 4-27-00 thru 10-16-00; BPSST 4-2000(Temp), f. & cert. ef. 9-29-00 thru 3-3-01; BPSST 5-2000, f. & cert. ef. 9-29-00; BPSST 1-2001, f. & cert. ef. 1-16-01; BPSST 3-2002, f. & cert. ef. 2-11-02; DPSST 12-2005, f. & cert. ef. 11-15-05; DPSST 20-2008, f. & cert. ef. 10-15-08

259-070-0010

Eligibility

(1) Eligibility of award applies to public safety officers who suffered a qualifying death or disability on or after October 23, 1999. Subject to availability of funds, the Board may award benefits to:

(a) Eligible family members of public safety officers who suffered a qualifying death or disability on or after October 23, 1999;

(b) A designee of a public safety officer who suffered a qualifying death or disability on or after January 1, 2008.

(2) Prior to acceptance of an initial application, any individual applying for benefits based on a qualifying disability must provide satisfactory evidence that they meet the definition of "permanent total disability" found in ORS 656.206 and OAR 436-030-0055.

(3) Satisfactory evidence is established by submitting:

(a) Proof of Determination of Permanent Total Disability in compliance with the Worker's Compensation Division of the Department of Consumer and Business Services; or

(b) Competent written vocational testimony by a person fully certified by the State of Oregon to render vocational services that the applicant meets the definition of "permanent total disability" found in ORS 656.206 and OAR 430-030-0055.

Stat. Auth.: ORS 245.950

Stats. Implemented: ORS 245.950

Hist.: BPSST 2-2000(Temp), f. 4-21-00, cert. ef. 4-27-00 thru 10-16-00; BPSST 5-2000, f. & cert. ef. 9-29-00; BPSST 3-2002, f. & cert. ef. 2-11-02; DPSST 12-2005, f. & cert. ef. 11-15-05; DPSST 1-2007, f. & cert. ef. 1-12-07; DPSST 20-2008, f. & cert. ef. 10-15-08

259-070-0020

Benefits

In determining the amount of scholarship benefits under ORS 243.956(8) and (10), "State Institution of Higher Education" means an institution listed in ORS 352.002.

Stat. Auth.: ORS 243.950

Stats. Implemented: ORS 243.962 & 243.968

Hist.: BPSST 2-2000(Temp), f. 4-21-00, cert. ef. 4-27-00 thru 10-16-00; BPSST 5-2000, f. & cert. ef. 9-29-00; BPSST 3-2002, f. & cert. ef. 2-11-02; DPSST 12-2005, f. & cert. ef. 11-15-05

259-070-0050

Transition Process for Current Beneficiaries

(1) A family member or public safety officer who had a qualifying death or permanent total disability and who applied for scholarship benefits prior to January 1, 2006, shall continue to be eligible to apply for scholarship benefits under the terms that were operative until January 1, 2004, awarding benefits for undergraduate degrees only.

(2) A family member or public safety officer who had a qualifying death or permanent total disability and who was receiving health and dental benefits prior to January 1, 2004, shall continue to receive health and dental benefits for up to five years or until the spouse remarries, whichever occurs first; and until the child(ren) attain 18 years of age (or 23 years of age if the child(ren) is attending school).

Stat. Auth.: ORS 243.956

Stats. Implemented: ORS 243.956

Hist.: BPSST 2-2000(Temp), f. 4-21-00, cert. ef. 4-27-00 thru 10-16-00; BPSST 5-2000, f. & cert. ef. 9-29-00; DPSST 12-2005, f. & cert. ef. 11-15-05