

Applicant Review Committee Meeting Minutes - DRAFT

May 22, 2024

The Applicant Review Committee of the Board on Public Safety Standards and Training held a regular meeting on May 22, 2024, at the Oregon Public Safety Academy in Salem, Oregon. Chair, Kathy McAlpine called the meeting to order at 11:00 a.m.

Committee Members:

Chelsea LaBar, APCO; Telecommunications Policy Committee (Teams)
Erin Reyes, Superintendent, Department of Corrections
Raeann Thurber, Telecommunicator, Telecommunications Policy Committee (Teams)
DeNeshia Barrett, Non-Management Law Enforcement (Teams)
Vacant, Public Member

Committee Members Absent:

Alex Gardner, OSP Command Staff Representative; Police Policy Committee
Ted Langley, Oregon Sheriff's Jail Command Council

Guests:

Joshua Avila
Nicholas Fugate

DPSST Staff:

Kathy McAlpine, Professional Standards Division Director
Kathy Fink, Criminal Justice Program Manager
Cindy Park, Professional Standards Compliance Coordinator
Melissa Lang Bacho, Professional Standards Compliance Coordinator
Jennifer Howald, Administrative Rules Coordinator
Erica Riddell, Criminal Justice Support Specialist
Shelby Wright, Executive Assistant



1. Introductions

Introductions of members, guests and staff.

2. Approve February 28, 2024 Meeting Minutes

Erin Reyes moved to approve the minutes from the February 28, 2024, Applicant Review Committee meeting. Chelsea LaBar seconded the motion. The motion passed unanimously.

3. Atkins, Steven (64789) Application Review: Corrections

Presented by Cindy Park, Professional Standards Compliance Coordinator

Reason for Discretionary Review

DPSST received an Application for Training (F5) and a Criminal History Reporting Form (F28) for Steven Atkins, who disclosed a 2020, criminal disposition in Idaho for *Attempted Unlawful Taking of Game Animal*. Atkins was charged on October 17, 2020. He ultimately pled guilty and was sentenced on November 9, 2020.

<i>Applicant Review Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Erin Reyes moved that the Applicant Review Committee adopt the record.	DeNeshia Barrett	4 ayes; 0 nays	Motion Passed Unanimously
DeNeshia Barrett moved that the Applicant Review Committee affirm the moral fitness violations as presented.	Erin Reyes	4 ayes; 0 nays	Motion Passed Unanimously
<p>The Applicant Review Committee found the following moral fitness violations and factors:</p> <p><i>Moral Fitness Violations:</i></p> <ul style="list-style-type: none"> • Dishonesty: The committee did not identify elements of dishonesty. • Gross Misconduct: The Actions that led to Atkins’ criminal disposition could have potentially harmed the property of the state of Idaho and its wildlife resources. <p><i>Aggravating Factors:</i></p> <ul style="list-style-type: none"> • Atkins was convicted of <i>Attempted Unlawful Taking of Game Animals, Birds, or Furbearers</i>, a Misdemeanor. • Atkins was hunting without the proper equipment to identify what animal he was shooting at. <p><i>Mitigating Factors:</i></p> <ul style="list-style-type: none"> • Atkins was not employed in a certifiable position at the time of the conduct. • Atkins has been hired by the Oregon Department of Corrections, who is aware of the criminal background. • The animal was not killed. • Atkins did extra community service hours. • Atkins’ written statement was mitigating. • When Atkins heard yelling, he stopped shooting. • It was Atkins’ first big game hunt. 			
Erin Reyes moved, after considering the identified violations of the Board’s pre-employment moral fitness standards and weighing the aggravating and mitigating circumstances unique to this case, that no action should be taken against Atkin’s application for training and subsequent certification.	Raeann Thurber	4 ayes; 0 nays	Motion Passed Unanimously

4. Avila, Joshua (64730) Application Review: Telecommunications

Presented by Cindy Park, Professional Standards Compliance Coordinator

Reason for Discretionary Review

DPSST received an Application for Training (F5) and a Criminal History Reporting Form (F28) for Joshua Avila, in which he disclosed a 2015 criminal disposition for *Driving While Ability Impaired* in Greely, Colorado.

Joshua Avila provided verbal mitigation for committee consideration.

<i>Applicant Review Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Erin Reyes moved that the Applicant Review Committee adopt the record.	DeNeshia Barrett	4 ayes; 0 nays	Motion Passed Unanimously
DeNeshia Barrett moved that the Applicant Review Committee affirm the moral fitness violations as presented.	Erin Reyes	4 ayes; 0 nays	Motion Passed Unanimously
<p>The Applicant Review Committee found the following moral fitness violations and factors:</p> <p><i>Moral Fitness Violations:</i></p> <ul style="list-style-type: none"> • Dishonesty: The committee did not identify elements of dishonesty. • Gross Misconduct: Avila’s choice to drink alcohol and drive on a road open to the public, was reckless conduct that could have caused significant harm to persons and property. <p><i>Aggravating Factors:</i></p> <ul style="list-style-type: none"> • Avila had a BAC of .09% and was convicted of a crime. • Avila originally stated to the police he had insurance but did not. • Avila changes his statement as to how much alcohol he drank in conversations with law enforcement. <p><i>Mitigating Factors:</i></p> <ul style="list-style-type: none"> • Avila was not employed in a certifiable position at the time of the conduct. • Avila has been hired by Portland State University Campus Public Safety, who is aware of the previous criminal disposition. • The incident occurred almost ten years ago. • Verbal and written statements are mitigating. • Letters of support from the employing agency are mitigating. • Avila was accountable for his actions and completed his requirements ahead of schedule. 			

DeNeshia Barrett moved, after considering the identified violations of the Board’s pre-employment moral fitness standards and weighing the aggravating and mitigating circumstances unique to this case, that no action should be taken against Avila’s application for training and subsequent certification.	Erin Reyes	4 ayes; 0 nays	Motion Passed Unanimously
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5. Fugate, Nicholas (65029) Application Review: Corrections

Presented by Cindy Park, Professional Standards Compliance Coordinator

Reason for Discretionary Review

DPSST received an Application for Training (F5) and a Criminal History Reporting Form (F28) for Nicholas Fugate, in which he disclosed previous criminal citations for *Disorderly Conduct II* and *Criminal Trespass II* in Malheur County Oregon, stating both were dismissed. Fugate pled guilty to *Disorderly Conduct II* and entered into a deferred sentencing agreement on December 20, 2021, and the additional charge of *Criminal Trespass II* was dismissed.

Nicholas Fugate provided verbal mitigation for committee consideration.

<i>Applicant Review Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
Chelsea LaBar moved that the Applicant Review Committee adopt the Record.	Raeann Thurber	4 ayes; 0 nays	Motion Passed Unanimously
Chelsea LaBar moved that the Applicant Review Committee affirm the moral fitness violations as presented.	DeNeshia Barrett	4 ayes; 0 nays	Motion Passed Unanimously
<p>The Applicant Review Committee found the following moral fitness violations and factors:</p> <p><i>Moral Fitness Violations:</i></p> <ul style="list-style-type: none"> • Dishonesty: The committee did not identify elements of dishonesty. • Gross Misconduct: Fugate participated in placing barriers on a public roadway, open to the public, which created a substantial risk of harm to individuals and vehicles using the road. 			

<p><i>Aggravating Factors:</i></p> <ul style="list-style-type: none"> • There is a criminal disposition in the case. • Fugate ran, hid, and was confrontational with police. • Fugate name dropped with police. • It is a relatively recent charge (2021). <p><i>Mitigating Factors:</i></p> <ul style="list-style-type: none"> • The county agency that arrested Fugate hired him. • Fugate’s verbal statement is mitigating. • Fugate has been promoted within the agency. • Fugate has no other offenses. • Fugate was not in a certifiable position at the time of the Conduct • Fugate has been hired by the Malheur County Sheriff’s Office who is aware of the criminal background. 			
Chelsea LaBar moved, after considering the identified violations of the Board’s pre-employment moral fitness standards and weighing the aggravating and mitigating circumstances unique to this case, that no action should be taken against Fugate’s application for training and subsequent certification.	Raeann Thurber	4 ayes; 0 nays	Motion Passed Unanimously

6. Schwartz, Tiah (65176) Application Review: Police

Presented by Cindy Park, Professional Standards Compliance Coordinator

Reason for Discretionary Review

The DPSST received an Application for Training (F5) and a Criminal History Reporting Form (F28) for Tiah Schwartz, who disclosed a 2018, criminal disposition for *Driving Under the Influence of Alcohol (DUII)*. Schwartz entered into a *DUII* diversion program on October 18, 2018, and completed the program on July 19, 2019.

In addition to the *DUII*, Schwartz was initially charged with *Recklessly Endangering Another Person* and *Reckless Driving*. Schwartz pled guilty to *Reckless Driving* on October 18, 2018. and received a deferred imposition of sentence. The offense of *Recklessly Endangering Another Person* was dismissed.

<i>Applicant Review Committee Discussion/Vote</i>	<i>Second</i>	<i>Vote</i>	<i>Outcome</i>
DeNeshia Barrett moved that the Applicant Review Committee adopt the record.	Raeann Thurber	4 ayes; 0 nays	Motion Passed Unanimously

Erin Reyes moved that the Applicant Review Committee affirm the moral fitness violations as presented.	DeNeshia Barrett	4 ayes; 0 nays	Motion Passed Unanimously
<p>The Applicant Review Committee found the following moral fitness violations and factors:</p> <p><i>Moral Fitness Violations:</i></p> <ul style="list-style-type: none"> • Dishonesty: The committee did not identify elements of dishonesty. • Gross Misconduct: Schwartz engaged in reckless conduct when she chose to drive a vehicle on a public roadway while under the influence of intoxicants, putting individuals and property at risk of significant harm. <p><i>Aggravating Factors:</i></p> <ul style="list-style-type: none"> • Schwartz was convicted of a criminal charge. • Schartz had a BAC of .17, which was egregious. • This occurred while Schartz was involved in volunteer fire/medical positions. <p><i>Mitigating Factors:</i></p> <ul style="list-style-type: none"> • Schwartz was not employed in a certifiable position at the time of the conduct. • Schwartz has been hired by the Portland Police Bureau which is aware of the previous criminal disposition. • Schwartz immediately reported the incident to the agencies she volunteered with. • The case was addressed quickly, and Schwartz took responsibility for her actions. • Schwartz went back into a position within public safety. 			
DeNeshia Barrett moved, after considering the identified violations of the Board’s pre-employment moral fitness standards and weighing the aggravating and mitigating circumstances unique to this case, that no action should be taken against Schwartz’s application for training and subsequent certification.	Erin Reyes	4 ayes; 0 nays	Motion Passed Unanimously

7. Inquiry Closure – Information Only

Presented by Cindy Park, Professional Standards Compliance Coordinator

DPSST presented the list of applicants for public safety training/certification who had engaged in pre-employment criminal conduct that was determined to not require committee review. This information was presented as information only and required no action by the committee.

The Applicant Review Committee, by consensus vote, requested staff to pull Zachary Hundersmarck from the Inquiry Closure Memo list and return the case for further information to be heard at the next Applicant Review Committee meeting.

8. Applicant Review Committee Chair Nomination

Presented by Kathy McAlpine, Professional Standards Division Director

Erin Reyes moved to appoint Erin Reyes as the new Chair of the Applicant Review Committee. Chelsea LaBar seconded the motion. The motion passed unanimously.

9. Next Applicant Review Committee Meeting: June 26, 2024 at 11:00 a.m.

Administrative Notes:

These minutes reflect the order of the discussion/voting items as they appear on the official meeting agenda. The actual order in which they were discussed may vary.

All documents reviewed and discussed in this meeting are subject to Oregon Public Records Law (ORS 192.410 to ORS 192.505). These documents can be requested by contacting DPSST at dpsst.records@dpsst.oregon.gov.