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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DPSST 9-2024

CHAPTER 259

DEPARTMENT OF PUBLIC SAFETY STANDARDS AND TRAINING

FILED

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SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amending the Standards and Processes for Student Suspension or Dismissal from the DPSST Academy

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NEED FOR THE RULE(S):

Any time a criminal justice public safety professional student is dismissed from the Oregon Public Safety Academy for a violation of the standards of student conduct, that dismissal has the potential to affect the student's ability to be employed as a public safety officer and to be certified by DPSST. In recognition of this impact, it is important to ensure that the rules contain the appropriate path of review and due process.

The Board on Public Safety Standards and Training approved the amendments to these rules and the immediate implementation of the changes using temporary rules. DPSST will also provide these temporary rules as proposed rules for public and constituent comment. Comments may result in amendment of the rules before they are adopted as permanent rules.

JUSTIFICATION OF TEMPORARY FILING:

(1) When a dismissal occurs, the current rules and processes require two things. DPSST professional standards staff must open a case and the case must be reviewed by the appropriate Policy Committee before the student can return to the Academy for training. If allowed to return to the Academy, the student loses credit for any basic Academy training completed before the dismissal and must start over.

The current and automatic outcomes for a student dismissal create circumstances that force some agencies into a situation where they have to terminate the student's employment. The length of time it takes to complete a discretionary moral fitness violation review and the requirement to restart the basic training course have a significant impact on the employing agency's operations, including staff scheduling and budget.

(2) The rules in OAR Chapter 259 Division 12 are specific to the criminal justice disciplines. These rules apply to police officers, corrections officers, parole and probation officers, OLCC regulatory specialists, telecommunicators, and emergency medical dispatchers while attending basic training courses at DPSST. The consequences of not amending these rules using a temporary rule change will affect DPSST, public safety officers attending training at DPSST, and the

agencies employing officers attending training at DPSST.

(3) Failure to immediately take rulemaking action will mean that DPSST will continue to dismiss students when there is a sustained finding of a violation, without considering the severity of the violation and mitigating circumstances. In most cases when a student is dismissed their employer also terminates their employment.

(4) These temporary rules implement changes to the Standards of Student Conduct in OAR 259-012-0010 and the processes in OAR 259-012-0035 for suspending or dismissing a student who engages in conduct that violates the Standards of Student Conduct. The temporary rules amend the Standards of Student Conduct, give DPSST more discretionary authority for dismissal and reinstating students to training, define appeal procedures, and clarify the Director's authority in the appeal process. In some cases, the discretion and the more detailed appeal process will lessen the operational impact on the employer and make it easier to retain the employee/student.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

The Board on Public Safety Standards and Training meeting minutes are available on the Department of Public Safety Standards and Training website, www.oregon.gov/dpsst. The DPSST staff memo is available by submitting a records request to DPSST.

RULES:

259-012-0010, 259-012-0035

AMEND: 259-012-0010

RULE SUMMARY: OAR 259-012-0010 establishes the Standards of Student Conduct. These rule changes amend the Standards of Conduct to support enforcement of the Student Rules and Regulations and provide additional clarifications to specific violations.

Section (1)(a) - The current rule requires students to follow any Department rule or policy. These changes specifically identify the Student Rules and Regulations as the primary student policy information that is provided to students.

Section (1)(b) - These changes include a variety of updates.

(A) - Amends the definition of Harassment to recognize that harassment as used here is not limited to protected classes.

(B) - Amends the definition of Discrimination to add gender identity, aligning with House Bill 3041 (2021).

(C) - Amends the category and definition of Cheating to Academic Dishonesty which allows for some clarifications related to existing language about sharing class content and adds language regarding unauthorized use of artificial intelligence tools.

(E) (F) and (G) - Adds conduct that threatens or harms the health or welfare of another person, compromises the integrity of the training, or impedes the delivery of or participation in training, which are all included in the Student Rules and Regulations as conduct that is considered a major violation.

(H) - Amends language used to define prohibited conduct related to participating in training while intoxicated.

CHANGES TO RULE:

259-012-0010

Standards of Student Conduct ¶

(1) Students attending mandated training courses at the Academy must adhere to the following standards of conduct:¶

(a) Students must comply with ~~any Department rule or policy~~ the DPSST Student Rules and Regulations and any

other rule or policy that the Department provides to students while at the Academy; and

(b) Students are prohibited from engaging in the following conduct:

(A) Harassment. Harassment includes verbal or physical actions addressing sex, race, gender, religion or a person's characteristics that could be reasonably construed to demean, target or harm another person, group of persons or a person's employer. Harassment also includes sexual harassment, bullying or hazing;

(B) Discrimination. Discrimination includes conduct that could be reasonably construed to be unfair treatment of another person because of the that person's actual or perceived race, color, national origin, religion, sex, sexual orientation, gender identity, age, marital status, sexual orientation, or medical or physical condition or disability;

(C) Cheating. Cheating includes:

(i) Actual, intended, or attempted deception or dishonest action by a student in relation to the completion of an exam or assessment or the administration or documentation of any training, testing or certification;

(ii) Knowledge of actual, intended, or attempted deception or dishonest action by a student in relation to the completion of an exam or assessment Academic Dishonesty. Academic dishonesty includes, but is not limited to:

(i) Cheating, which includes accessing or using unauthorized materials, information, tools, or study aids.

(ii) Plagiarism, which includes presenting another's material as one's own or submitting material generated by others. This may also include work that is purchased or othe administration or documentation of any training, testing or certification when that knowledge is not disclosed to the Department or withheld during an investigation;

(iii) Plagiarism; or

(iv) Sharing class conwise prepared by another individual or unauthorized use of artificial intelligence (AI) content generators and generative AI tools.

(iii) Providing or receiving scenario plots, test questions, test with answers, or any other class. Sharing class content means the passonfidential or restricted curriculum content.

(iv) Aiding ofr anybetting academic information regarding course content, testing methodology, or scenario plots by any student to a member of any other classdishonesty.

(v) Failing to disclose, or withholding information about, acts of academic dishonesty.

(D) Conduct that would constitute a criminal offense;

(E) Intoxication or any level of measurable blood alcohol content (BAC) while participating in any portion of a mandated training course; Conduct that threatens or harms the health or welfare of another person;

(F) Conduct that compromises the integrity of the training;

(G) Conduct that impedes the delivery of or participation in training;

(H) Participating in any portion of a mandated training course while impaired to a noticeable or perceptible degree due to consumption or use of an intoxicant as the term is defined in ORS 801.321;

(F) Personal use or possession of alcohol, marijuana/cannabis, or illicit drugs on the OPSA campus; or

(G) Intimate physical contact of a sexual nature while on Academy property.

(2) Any violation of the standards of conduct defined in section (1) of this rule may result in dismissal from the Academy pursuant to OAR 259-012-0035.

Statutory/Other Authority: ORS 181A.410

Statutes/Other Implemented: ORS 181A.410

AMEND: 259-012-0035

RULE SUMMARY: OAR 259-012-0035 outlines the policies and processes for suspending or dismissing a student who violates the Standards of Student Conduct. These rule changes give the Department more discretionary authority when dismissing students and when reinstating students to training. These rule changes also define appeal procedures and clarify the Director's authority in the appeal process.

Section (2) adds recognition for safety violations. A safety violation can cause an immediate suspension of training but is not always a misconduct issue. This addition creates a separate path to make sure that these do not automatically lead to a dismissal.

Section (3) maintains the current processes when a student is suspended due to an alleged violation of the standards of conduct.

Section (4) maintains the current process of conducting an investigation when there is an actual or alleged violation of student conduct. DPSST's training division conducts the investigation and makes the determination that the conduct is a violation of the standards of conduct. The current processes result in the student's dismissal if there is a sustained finding. Subsection (4)(d) adds discretion to the investigatory process and allows the training division to identify and consider aggravating and mitigating circumstances that will inform the decision to dismiss the student and set conditions for their return to training. This means that not every sustained violation has to result in dismissal. It gives the training division the discretion to identify when the suspension is a satisfactory resolution that fits the violation and the mitigating circumstances.

Section (5) maintains the current processes for the dismissal action. Subsection (5) (b) is referencing the addition of the discretion in this process.

Section (6) defines the conditions that can be applied when there has been a suspension or dismissal. These conditions make different outcomes available to the training division that allow DPSST to scale back from the two current required outcomes which were to wait to come back until the professional standards case is complete and to automatically start over from the beginning. Under the conditions listed, the training division or the Director can allow a student to come back to training before a professional standards compliance case has been completed. And allow them to re-join a different class picking up at a point that corresponds with the training that they completed. If there are no conditions placed on the reinstatement, the student could be reinstated to their current class.

Section (7) expands on the student's opportunity to appeal a dismissal action.

CHANGES TO RULE:

259-012-0035

Student Suspension or Dismissal from a Mandated Training Course ¶¶

~~(1) Student violations and allegations of student violations of the standards of conduct defined in OAR 259-012-0010 will be reviewed and investigated by the Department.¶¶~~

~~(2) Upon initiation of any investigation involving a potential violation of the standards of conduct, the Department will notify the student's employing agency.¶¶~~

(3) Upon completion of the investigation suspensions. The Department may immediately suspend a student from a mandated training course when a situation requires immediate action to preserve the safety or integrity of the classroom or training venue.¶¶

(2) Suspension for a Safety Violation.¶¶

(a) The Department will notify the student's employing agency that the student has been suspended from training due to a safety violation.¶¶

(b) The suspension will remain in effect until the safety issue has been resolved.

(c) Once resolved, the Department may reinstate the student to their current course.

(d) If the safety issue can't be resolved during the student's current course, the Department, in consultation with the employing agency, may schedule the reinstatement to occur in a different course.

(e) Absences resulting from suspension are unexcused. Coursework and training missed due to a suspension must be completed or remediated as determined by the Department.

(3) Suspension for a Violation of the Student Rules and Regulations or the Standards of Student Conduct Defined in OAR 259-012-0010.

(a) The Department will notify the student's employing agency that the student has been suspended from training due to a violation or alleged violation of the Student Rules and Regulations or the Department will issue a final report. The report will be forwarded to the student and the employing agency.

(4) Suspension. The Department may immediately suspend a student from a mandated training course when a situation requires immediate action to preserve the integrity or safety of the classroom or training venue. The suspension will remain in effect until a review and investigation has been completed pursuant to section (3). The per Standards of Student Conduct.

(b) The suspension will remain in effect until the investigation required pursuant to section (4) of this rule is complete.

(c) Absences resulting from suspension are unexcused. Coursework and training missed due to a suspension must be completed or remediated as determined by the Department.

(4) The Department must complete an investigation when a student engages in conduct that violates the Student Rules and Regulations or the Standards of Student Conduct defined in OAR 259-012-0010 or the Department receives an allegation of a violation.

(a) Upon initiation of an investigation, the Department will notify the student's employing agency. The notice of an investigation may be combined with a notice of suspension.

(b) The investigation must be completed following the policies or procedures adopted by the Department for investigating student conduct.

(c) If the Department's investigation does not sustain any violations, the Department may reinstate the student to their current course.

(d) If the Department's investigation results in sustained findings of a violation, the Department may consider the aggravating and mitigating circumstances and may impose conditions on the student's reinstatement to training pursuant to section (6) of this rule, up to and including dismissing the student from the Academy.

(e) Upon completion of suspension will be considered an unexcused absence from the mandated training course the investigation, the Department must provide the student and the employing agency with a copy of the investigation summary and findings. The Department must also provide the student and the employing agency with a notification regarding any conditions imposed on the student's reinstatement to training.

(5) Dismissal. The Department may dismiss a student upon completion of when an investigation completed pursuant to section (3) that substantiates a violation that the student violated the Student Rules and Regulations or the Standards of Student Conduct defined in OAR 259-012-0010.

(a) The Department may dismiss a student from the Academy regardless of whether the student's current enrollment or employment status has already been withdrawn from a course or separated from their employment.

(b) The Department may impose conditions for reinstatement to training as defined in section (6) of this rule.

(c) Absences resulting from dismissal are unexcused. Coursework and training missed due to a dismissal must be completed or remediated as determined by the Department.

(d) Pursuant to OAR 259-008-0300(3)(B)(D), dismissal is from the Academy for a violation of the Student Rules and Regulations or Standards of Student Conduct is subject to discretionary review for denial of training and certification. When a

(e) If the student is dismissed, the Department will open a professional standards case for discretionary review in accordance with the applicable must forward a copy of the completed investigation to the Department's professional standards compliance staff within five business days after the opportunity to appeal the dismissal expires or, if appealed, the appeal process is completed.

(6) Conditional Reinstatement of Training.

(a) The Department may impose any of the following conditions for reinstatement to training when a student has been suspended or dismissed:

(A) The student must be reinstated to a different course. If a provisions of OAR chapter 259 division 8. Tal standards review is required under OAR 259-008-0300, the reinstatement may occur before the review is completed.

(B) The student must wait to be reinstated to a different course until the professional standards case review process must required under OAR 259-008-0300 has been completed to determine the student's eligibility for

future training and certification and the case is either administratively closed or there is no action taken against the student's training or certification;¶

(C) The student must complete the mandated training course in its entirety and will not receive credit for any part of the mandated training course that was completed by the student prior to scheduling the student for any additional the dismissal; or¶

(D) Any other conditions identified by the Department and related to scheduling or completion of any portion of the mandated training course.¶

(7b) The student may appeal following factors must be considered when making the dismissal through the Director by submitting a written request within 20 days of the dismissal. The request decision to reinstate the student to their current course or a different course:¶

(A) Whether or not the amount of coursework and training missed can be completed or remediated during the student's current course;¶

(B) Whether or not the student can be added to another course at a point in the course schedule that corresponds with the coursework appeal may include written mitigation and training that needs to be completed or remediated;¶

(C) Whether or not the effectiveness of the course would be adversely affected by the length of absence if the student may request to present mitigation to the Director in person. is permitted to complete the missed and remaining portions of the course without restarting the course;¶

(8D) The Director Whether or not the student or, or an authorized designee, will review the request for appeal and consider the student's conduct, the fact whether students in the course would be adversely affected by reinstating the student to their current course; and¶

(E) Any other factors that affect the student's reinstatement or the Department's identified in the final investigation report and any mitigation provided to determine whether to uphold or overturn the dismissal. If the dismissal is upheld, the dismissal is final. If the dismissal is overturned, the Department will close the professional standards case and the student may be scheduled for training. Any course completion or remediation will be scheduled as determined by the Department. livery of the course.¶

(c) When reinstating a student to a different course, the Department may coordinate with the employing agency to schedule which course the student will be reinstated to.¶

(d) A person is not eligible for reinstatement to training if they are no longer employed.¶

(7) Appealing a Dismissal.¶

(a) The student may appeal the dismissal by submitting a written request to the Director within three business days from the date of dismissal.¶

(b) The Director must schedule a meeting with the student to consider the request for appeal. The meeting must occur within three business days from receipt of the request to appeal.¶

(c) The meeting may be conducted in person or remotely, but it must be recorded and include the following individuals:¶

(A) The Director;¶

(B) A second Department representative;¶

(9C) S The students who have been dismissed from a mandated training course will not receive credit toward completion of the mandated training course and the Department will not recognize any portion of the mandated training course that was completed by the student prior to the dismissal as satisfying the minimum standards for training and certification; and¶

(D) If the student chooses, no more than two personal representatives. Examples of personal representatives include, but are not limited to, members of the employing agency or legal representatives.¶

(d) The student may submit mitigation or new evidence in writing before or during the meeting, verbally during the meeting, or both.¶

(e) The Director must decide the outcome of the appeal within three business days after the meeting. After considering the sustained violations and any aggravating and mitigating circumstances, the Director may:¶

(A) Conduct or request additional investigation before making a decision;¶

(B) Uphold the dismissal and uphold the conditions for reinstatement as determined by the Department;¶

(C) Uphold the dismissal and modify the conditions for reinstatement; or¶

(D) Reverse the dismissal back to suspension and uphold or modify the conditions for reinstatement.¶

(f) The Director's decision is final and unappealable.¶

(g) The Director may appoint a designee for any portion of the appeal process.¶

(h) The Director or the appointed designee may approve an extension of time to complete any step of the appeal process.

Statutory/Other Authority: ORS 181A.410

Statutes/Other Implemented: ORS 181A.410

