



MEETING AGENDA



Police Advisory Board	
Date & Time:	Thursday – June 20, 2024 7:00 pm
Location:	Sherwood Police Department, Community Room 20495 SW Borchers Drive, Sherwood 97140
<u>Attendees</u>	
P.A.B. Members:	Council Liaison:
Brian Dorsey - Chair	Council President Kim Young
Laurie Zwingli - Vice Chair	City Staff:
Richard Amicci (TSC Liaison)	Chief Ty Hanlon
Diane Foster	Angie Hass-Executive Assistant
Brandi Morton	
Lawrence O'Keefe	
Mike Schultz	
Amanda van Arcken	
Chris West	

This meeting will be live streamed at:
<https://www.youtube.com/user/CityofSherwood>

1. Call to Order (Chair)
2. Roll Call (Chair/Staff)
3. Approval of May Meeting Minutes (Chair)
4. *Citizen Comments
5. Board Member Announcements (Chair)
6. Business
 - A. Term Expirations: July 1st
 1. Diane Foster, Mike Schultz & Richard Amicci
 2. Chair & Vice Chair Nominations/Voting
 3. TSC Liaison(s)
7. Traffic Safety Committee Update (TSC Liaison)
8. Councilor News
9. Staff Report(s)
 - A. Commission on Statewide Law Enforcement Standards of Conduct and Discipline - 2024 Commission Survey
10. Adjourn (Chair)

***How to Provide Citizen Comments:** Citizen comments may be provided in person, in writing, or by telephone. Sign-up forms will be available at the meeting for anyone who wishes to provide comments in person. Written comments must be submitted at least 24 hours in advance of the scheduled meeting start time by email to policeinformation@sherwoodoregon.gov and must clearly state that it is intended as a general Citizen Comment for this meeting. To provide comment by phone during the live meeting, email or call, 503-625-5523, #2, at least 24 hours in advance of the meeting start time in order to receive dial-in instructions. In-person and telephone comments are limited to 4 minutes per person. Per Council Rules Ch. 2 Section (V)(D)(5), Citizen Comments, "Speakers shall identify themselves by their name and by their city of residence." Anonymous comments will not be accepted into the meeting record.

If you require an ADA accommodation for this public meeting, please contact the Sherwood Police Department at (503) 625-5523, #2 or policeinformation@sherwoodoregon.gov at least 48 hours in advance of the scheduled meeting time.



Meeting Minutes



Police Advisory Board	
Date & Time:	June 20, 2024 - 7:00 pm
Location:	Sherwood Police Department-Community Room 20495 SW Borchers Drive Sherwood, OR 97140



P.A.B. Members:	Council Liaison:
Brian Dorsey - Chair	Council President Kim Young
Laurie Zwingli - Vice Chair	City Staff:
Richard Amicci (TSC Liaison)	Chief Ty Hanlon
Diane Foster	Angie Hass – Executive Assistant
Brandi Morton	
Lawrence O’Keefe	
Mike Schultz	
Chris West	
Amanda van Arcken	

This meeting was recorded and is available for viewing through the City of Sherwood’s YouTube channel:

<https://www.youtube.com/watch?v=6ftXNWQFZRQ>

1. Call to Order

Chair Dorsey called the meeting to order at 7:00 p.m.

2. Roll Call

Board Members Present: Chair Brian Dorsey, Richard Amicci, Diane Foster, Lawrence O’Keefe, Mike Schultz, Amanda van Arcken and Chris West

Board Members Absent: Vice Chair Laurie Zwingli and Brandi Morton

Staff Present: Chief Ty Hanlon, Council President Kim Young and Executive Assistant-Angie Hass

3. Approval of Minutes - May 16, 2024 Meeting Minutes

Ms. van Arcken moved that the May meeting minutes be approved as presented and Mr. Schultz seconded the motion. All present board members voted in favor of approval.

4. Citizen Comments

N/A

5. Board Member Announcements (Chair)

Mr. Amicci talked about his time at Cruisin' Sherwood and said that they had a great time. Robin Hood Festival is right around the corner, along with Movies in the Park. He wanted to remind everyone to check out the City's Calendar of Events for more upcoming summertime activities.

Mr. Schultz was happy that his work schedule allowed him to be in attendance that evening.

Mr. West reported that Tigard PD has a new Police Chief, Jamey McDonald. He was serving as the interim Chief. He is the first Tigard Chief to work his way up through the ranks.

Mr. O'Keefe sat in on the last Traffic Safety Committee meeting. He thinks it is the busiest board in the city, other than the City Council. He appreciates all that they do. He also appreciates everyone that helped out with Cruisin' and sticking it out with all of the rain.

Ms. Foster commented on the Facebook post that SPD had recently put out regarding the Traffic Safety Committee. She noted that a lot of people put their comments and concerns on the Facebook page, despite the instruction to complete a form and submit to the PD.

Chair Dorsey volunteered at the Cruisin' Car Show and wanted to let all viewers know that the city can always use volunteers for the different events. In some cases, the whole family signed up to help out.

6. Business (Chair / Staff)

A. Term Expirations: July 1st

1. Diane Foster, Mike Schultz & Richard Amicci

Chief Hanlon announced that all three reappointments had been approved by the Mayor and City Council. They are good for another three-year term.

2. Chair & Vice Chair

Chair Dorsey asked if anyone was interested in taking on the Chair role. No one wanted to take it on and all board members agreed that he was doing a great job, indicating that they would like him to remain in the Chair role.

Vice Chair Zwingli had let Chair Dorsey know that she would like to step down. Mr. Amicci asked for clarification on the Vice Chair responsibilities.

A vote took place and all present board members were in favor of Mr. Amicci taking on the role of Vice Chair.

A vote took place and all present board members were in favor of Chair Dorsey continuing on in his current role.

3. TSC Liaison(s)

Mr. Amicci would like to remain in the liaison role for another term. It would be nice if someone would be available to take his place, in the event that he is unable to make one of the meetings. Ms. Morton had indicated an interest at the last month's meeting and Mr. O'Keefe stated that he was also interested. Ms. van Arcken moved that Mr. Amicci remain in the role and Mr. O'Keefe seconded the motion. All present board members were in favor. As Ms. Morton was not present, Chair Dorsey stated that they would wait until the next month's meeting to decide who will be the back-up.

7. Traffic Safety Committee (TSC) Update

Mr. Amicci reported that the last meeting was pretty eventful and they successfully closed out a couple items that had been completed.

The pedestrian bridge is on schedule. There may be some lane closures on Elwert, coming up soon. There should be minimal impact on traffic, as the closures will be taking place in the evenings.

Mr. Amicci talked about the intersection at Sunset and Timbrel. This area has been on the TSC spreadsheet for a long time. They've been told that a Safe Routes to School Program grant has been approved for the City of Sherwood. The total cost to do all that they need to do will be \$380,000. The city could receive 90% of that through the grant, due to Sherwood being a smaller city. City staff is now gathering letters of support. With that funding, there could be an opportunity for Washington County to cover the rest of it. There is a possibility that they could get that intersection completely redone, for free. It has been pretty exciting to see this all come together. Ms. van Arcken asked if there is already a plan for how it will be set up. Mr. Amicci stated that there is and provided some information. In addition to a pedestrian access, there is a much bigger piece and a longer term plan. Mr. West shared that this was one of the first requests received by the TSC when he was a liaison and when the TSC was first formed.

Mr. Amicci said that the committee had discussed the best way to get the word out about the committee to the citizens. That is how the recent Facebook post came about.

Chair Dorsey talked about a video that was posted regarding kids getting out and about, now that summer's here. He reminded folks to drive slowly through the community and keep eyes out for kids on bikes, scooters, etc.

8. Councilor News

Council President Young reported that the City Council had approved the next year's budget at that week's meeting. Unfortunately, no requests for increased staffing for the PD were approved. They will be readdressing this in October. The PD is hoping to add one more sergeant position.

There was a discussion at the Work Session to decide what the next steps will be for hiring a new city manager. It was decided to move forward with the current interim city manager. He has been doing a fantastic job and has worked for the City of Sherwood as the Public Works Director for 24 years. He has accepted the position and the City Council will commence with putting together his contract.

At that same meeting, the City Council and the city were presented with a Patriot Award. That award is for cities, employers or supervisors who support and encourage military service, including reservists. The city has quite a few reservists who work for them. Most are at the PD. This came about as their City Attorney was just deployed to Kosovo for 16 months.

Council President Young was part of a press conference with the Environmental Protection Agency (EPA), that past Tuesday morning. This was in regards to the city receiving a 5 million dollar grant from the United States EPA. This is the largest grant you can get from them. The city has had a lot of support from Senators Merkley and Wyden and Representative Salinas to make this happen. The money will go to cleaning up the former tannery site on Oregon Street where the ground was contaminated with battery acid (by a battery company) and animal hides. This will be where the new Public Works facility will be going in. The clean up will also protect the Wildlife Refuge. There will, eventually, be a storm water facility on it. After the Press Conference, they went on a tour of the property. They could see where the layers of hides had been stacked and buried. Mr. West talked about the chemicals that were used on the hides. Mr. O'Keefe talked about responding to the trestle fire a few years back, which is on the property, and how they could see different color flames emitting from the ground (purples and greens, etc.). Council President Young stated that city staff and their consultants did a fantastic job writing the grant. After all is said and done, there will be ten usable acres, along with the wetlands, etc.

She reported that they received a several million dollar grant for Broadband, as well. The grant is to help with reaching underserved and rural areas.

Mr. West asked Chief Hanlon if the RedFlex cameras are back on and if they are receiving revenue like they should be. Chief Hanlon replied that pass through, speed on green, north and south on HWY 99 is up. No red light enforcement at this time. Mr. West asked what the hit to the general fund was, as a result of fewer citations. The Chief replied that it was a pretty substantial hit, but he didn't have the exact numbers. Council President Young stated that the city knew that

would be the case and budgeted for that difference. The Chief stated they made the budget adjustments again for this new budget cycle, knowing that it will probably be another year before it is back on.

Mr. West was glad to hear that the tannery property will be the site for the city's new Public Works facility. Tigard is looking for a new site for their Public Works, as well, but there is no developable land. It is the same for Beaverton. Council President Young said that the construction of the building will cost a lot – around 25 million dollars.

Mr. West asked Council President Young where they are with Metro and the plan for Sherwood West. She replied that it is out of their hands at this time.

9. Staff Report(s)

Chief Hanlon reported that the PD had acquired a set of barriers the year before through a grant. Mr. Amicci stated that he had seen them at the Cruisin' Sherwood event. The Chief added that, thanks to Portland, they just received a second set. The SPD looks at them as a regional asset, so if another local agency would like to use them, they can. The downside is that they're pretty heavy so you do have to have some people to be able to move them around. Once they're set, they're great. Council President Young asked where they're stored and was told they are stored on a trailer at the Public Works facility. They will be great to have on hand for the bigger city events.

Chief Hanlon shared that they had just brought on two new Reserve Officers. The Reserve Officers attended and completed the 6 month Academy, which included 360 hours of training. This was all on their own time, as they are volunteers. Their Swearing-In Ceremony is scheduled for the 26th. Officer Adam Keesee will also be sworn in as a Sergeant that same day, due to his recent promotion.

A Retirement Celebration Ceremony is scheduled for Officer Sean Perry, on July 24th. He has been with Sherwood for 16 years and prior to that, he was in California for 14. Invites will be sent to all PAB members.

SPD's newest officer, Robert Caraway, was sworn in the month before. He comes to Sherwood with seven years of experience, including search and rescue experience. Having his experience, as well as another recent hire, Officer Spencer, is going to be very helpful when hiring some of the younger officers just starting out.

The Chief added that with the two new Reserve Officers, that brings the SPD's total number of reserves to four. He believes that most, if not all, desire to become full-time officers.

Sergeant Jentzsch has handed Miss B off to her new handler, Officer Lucas Spencer. There is a bonding period that they need to go through and then Officer Spencer will go through the 10 week class. Miss B will be off the road for close to six months, during this transition. SPD will have to utilize other agencies K-9's for a while.

With Adam Keesee now in a sergeant role, they will need to have someone else fill the MHRT role.

They are working hard to get the drone team up and going. There is a lot involved to make it happen. They are currently working with neighboring agencies. The hope is to have everything set in 6-8 weeks.

Despite the rain, everyone seemed to have had a lot of fun at this year's Cruisin' Sherwood event. Mila was in attendance, which was great for the kiddos.

The 2024 National Night Out is scheduled for August 6th at Cannery Square, 5-8 p.m. This is the event where Officer Mattson makes it a lot of fun with water fights. The GHD Band will be providing entertainment for all, once again. The City Council has changed up their meeting schedule that evening, so they can all make it.

Mr. Amicci asked what the SRO's do during the summer months. The Chief stated that they switch over to patrol, which is very helpful with many officers on military leave, vacations, etc. The Chief stated that he hadn't yet met the new superintendent. He has heard that the superintendent is very supportive of the SRO Program.

A. Commission on Statewide Law Enforcement Standards of Conduct and Discipline – 2024 Commission Survey

Refer to Exhibit A.

The Chief referred everyone to the agenda attachment (Exhibit "A"). This survey was received through the Police Advisory Board email distribution list. Chief Hanlon explained that he is part of a moral and fitness group with the state. What they've done here, is identified six or seven different types of conduct and what the discipline means with that. They also address the aggravating and mitigating factors that come into play with the final decision on these.

He went over page seven with the group and stated that it lists the most egregious forms of misconduct and immediate action that needs to take place. Page 10 lists the discipline for the types of conduct listed.

A discussion ensued regarding who was supposed to complete the survey. Chair Dorsey read aloud where it stated that individuals can participate in completing the survey. The survey was due in only a few days, 6/25. Council President Young said that it sounded like each member could complete their own survey, if they wanted to.

For the full discussion on this topic, please check out the YouTube video, beginning at the 46:39 minute mark: <https://www.youtube.com/watch?v=6ftXNWQFZRQ>.

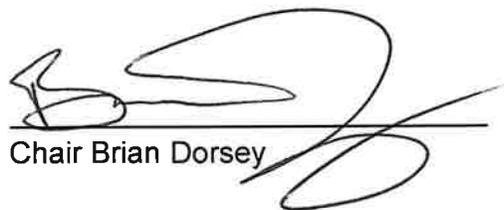
After the group discussion, the decision was made that each member would complete the survey, if they chose to do so.

10. Adjourn (Chair)

At 8:09 p.m., Mr. West made a motion to adjourn the meeting and Ms. van Arcken seconded the motion. All board members voted in favor.

The next meeting is scheduled for July 18th at 7 p.m.

Approval of Minutes:


Chair Brian Dorsey


Date

Attest:


Angie Hass-Executive Assistant


Date

Dear community partners:

You are receiving this email because you have expressed interest in the work of the Commission on Statewide Law Enforcement Standards of Conduct and Discipline (“the Commission”). The Commission adopted [rules](#) that set conduct and discipline standards for misconduct by law enforcement officers. Pursuant to ORS 243.812(14)(b), the Commission is required to submit a report to the legislature that includes recommendations on updates to the standards. In order to prepare this report and meet the statutory deadline, the Commission is inviting you, as a community partner, to complete a survey to provide your input. Please feel free to forward this message and the survey link to other community members that you think might be interested in providing input to the Commission. Please do note that responses to this survey will be submitted to the Legislature and will be publicly available on the Commission’s website. Please do not include confidential information in your responses.

The survey is available here: [2024 Commission Survey \(smartsheetgov.com\)](#) Please complete by June 25, 2024.

SURVEY QUESTIONS

What recommendations do you have for the Commission to update the uniform standards of conduct?

What recommendations do you have for the Commission to update the uniform standards of discipline?

Commission on Statewide Law Enforcement

Standards of Conduct & Discipline

Chapter 265

Division 1 Procedural Rules

265-001-0001

Model Rules of Procedure

Pursuant to ORS 183.341, the Commission adopts the Attorney General's Model Rules of Rulemaking under the Administrative Procedures Act as amended and effective March 1, 2022.

Statutory/Other Authority: ORS 243.812 (12)

Statutes/Other Implemented: ORS 243.812 (12)

History:

CSLES 1-2022, adopt filed 03/28/2022, effective 03/28/2022

265-001-0005

Notice of Proposed Rules

Prior to adoption, amendment or repeal of any permanent rule, the Commission shall give notice of the intended action:

- (1) In the Secretary of State's bulletin referred to in ORS 183.360 at least 21 days prior to the effective date of the rule;
- (2) By mailing or e-mailing a copy of the Notice to persons on the mailing list established pursuant to ORS 183.335 (8) at least 28 days prior to the effective date of the rule;
- (3) By mailing or e-mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and
- (4) By mailing, e-mailing, or furnishing a copy of the notice to the following at least 28 days prior to the effective date of the rule:
 - (a) The Associated Press;
 - (b) The Capitol Press Room;
 - (c) Each District Attorney in the state;
 - (d) Each Sheriff in the state;
 - (e) Each Chief of Police in the state;
 - (f) The Superintendent of the Oregon State Police;

(g) The Director of the Oregon Department of Corrections; and

(h) Each civilian or community oversight board, agency, or review body as defined in ORS 243.812(15)(b).

Statutory/Other Authority: ORS 243.812 (12)

History:

[CSLES 1-2024, amend filed 02/05/2024, effective 02/05/2024](#)

[CSLES 4-2022, adopt filed 06/30/2022, effective 06/30/2022](#)

[CSLES 3-2022, temporary adopt filed 03/28/2022, effective 03/28/2022 through 09/23/2022](#)

265-001-0010

Public Records Requests

(1) A request to inspect or obtain copies of a public record or information from public records shall be made in writing and must include the following information:

(a) Name, address, email address, and telephone number of the requester; and

(b) A specific description of the records requested and time period records were produced.

(2) The Commission will charge fees pursuant to ORS 192.324 and the Oregon Department of Administrative Services Standardized Public Records Requests Fees and Charges Statewide Policy 107-001-030 and ensure that all charges reflect no more than the actual cost to the Commission of producing and processing the public records request. This includes fees for:

(a) Staff time necessary to identify, locate, summarize or compile the record as requested;

(b) Attorney fees and staff time associated with the screening of materials or redacting information that is exempt from disclosures

(c) Supervision of on-site inspection of the public record by the requester;

(d) Customary fee per page or other media for reproduction, handling and assembling of copies to be provided; and

(e) Postage or similar expenses and special supplies or services necessary to furnish the records.

(3) The requester must pay all fees for access of a public record in advance.

Statutory/Other Authority: ORS 243.812 (12)

History:

[CSLES 4-2022, adopt filed 06/30/2022, effective 06/30/2022](#)

[CSLES 3-2022, temporary adopt filed 03/28/2022, effective 03/28/2022 through 09/23/2022](#)

Division 5 General/Definitions and Policy

265-005-0001

Definitions

(1) "Assault" has the meaning given that term in ORS 163.115.

- (2) "Civilian or community oversight board, agency or review body" has the meaning given that term in ORS 243.812.
- (3) "Controlled Substance" has the meaning given that term in ORS 475.005.
- (4) "Deadly physical force" has the meaning given that term in ORS 161.015.
- (5) "Disciplinary action" means a personnel action against a law enforcement officer in the form of a written reprimand, suspension without pay, reduction in salary, demotion, or termination of employment upon a finding that the law enforcement officer engaged in misconduct.
- (6) "Disciplining body" means a law enforcement agency or, if applicable, a civilian or community oversight board, agency or review body.
- (7) "Domestic violence" has the meaning given that term in ORS 135.230.
- (8) "Exclusive representative" has the meaning given that term in ORS 243.650(8).
- (9) "Finding" means a final determination by the decision maker of a disciplining body that a law enforcement officer has engaged in misconduct for which the decision maker making the determination has authority to impose disciplinary action.
- (10) "Intentional" has the meaning given that term in ORS 161.085.
- (11) "Justification" means a justifiable use of physical or deadly physical force pursuant to ORS 161.205 to ORS 161.267.
- (12) "Just Cause" has the meaning given that term in ORS 236.350.
- (13) "Law enforcement agency" has the meaning given that term in ORS 243.812.
- (14) "Law enforcement officer" has the meaning given that term in ORS 243.812.
- (15) "Misconduct" means conduct that violates state, tribal or federal law or the policies of the law enforcement agency employing the law enforcement officer, or that subjects the law enforcement officer to disciplinary action under these rules.
- (16) "Misuse of authority for financial gain" occurs when a law enforcement officer's vote, opinion, judgment, action, decision or exercise of discretion is influenced by the officer's solicitation or acceptance of a financial benefit for the officer or a third person. This rule does not apply to agency-approved fundraising activities.
- (17) "Moral Character" means performing the duties of a law enforcement officer in a manner that demonstrates honesty, fairness, and respect for the rights of others and for the laws of the state and the nation.
- (18) "Physical Force" has the meaning given that term in ORS 161.015.
- (19) "Physical Injury" has the meaning given that term in ORS 161.015.
- (20) "Serious Physical Injury" has the meaning given that term in ORS 161.015.
- (21) "Sexual assault" has the meaning given that term in ORS 243.317.

(22) "Sex crime" has the meaning given that term in ORS 163A.005.

(23) "Sexual Harassment" has the meaning given that term in OAR 839-005-0030.

(24) "Stalking" means engaging in conduct constituting the crime of stalking in ORS 163.732.

(25) "Untruthfulness" means being dishonest or untruthful in a manner that reflects adversely on the ability of a law enforcement officer to perform their official duties, which includes knowingly or willfully: making false statements, falsifying work-related records or official documents, omitting material facts or material information, or answering questions or providing information in a manner that is incomplete, evasive, deceptive, or misleading. A statement is not considered untruthful when the officer reasonably believes that deception (i) is necessary due to the nature of the officer's assignment, such as an undercover assignment; (ii) is necessary to acquire information for a criminal investigation, or (iii) to protect the officer or others from an articulable threat. The use of deception in these circumstances must be for a specific and legitimate law enforcement purpose.

Statutory/Other Authority: ORS 243.812

Statutes/Other Implemented: ORS 243.812

History:

[CSLES 1-2024, amend filed 02/05/2024, effective 02/05/2024](#)

[CSLES 5-2022, adopt filed 09/30/2022, effective 09/30/2022](#)

265-005-0005

Application of Oregon Revised Statutes

These rules are subject to the Oregon Revised Statutes, including but not limited to ORS 243.808, 236.350, and 243.706.

Statutory/Other Authority: ORS 243.812

Statutes/Other Implemented: ORS 243.812

History:

[CSLES 5-2022, adopt filed 09/30/2022, effective 09/30/2022](#)

265-005-0010

Burden of Proof

(1) For any collective bargaining agreement entered into or renewed on or after July 1, 2021, for all disciplinary actions imposed upon a law enforcement officer, a disciplining body has the burden to prove by a preponderance of evidence that the officer engaged in misconduct and that any disciplinary action taken against the officer was with just cause as defined by ORS 236.350.

(2) No collective bargaining agreement entered into or renewed on or after July 1, 2021, may include a standard of just cause for law enforcement officers other than the standard as defined in ORS 243.808 and 236.350.

Statutory/Other Authority: ORS 243.812

Statutes/Other Implemented: ORS 243.812

History:

[CSLES 6-2022, minor correction filed 10/04/2022, effective 10/04/2022](#)

[CSLES 5-2022, adopt filed 09/30/2022, effective 09/30/2022](#)

265-005-0015

Disciplinary Action for Misconduct Not Identified By These Rules

Upon a finding of misconduct not specifically identified within these rules, a disciplining body may take disciplinary action pursuant to the employing law enforcement agency's policies and practices so long as the disciplinary action is consistent with these rules.

Statutory/Other Authority: ORS 243.812

Statutes/Other Implemented: ORS 243.812

History:

[CSLES 5-2022, adopt filed 09/30/2022, effective 09/30/2022](#)

265-005-0020

Multiple Instances of Misconduct; Arbitrary and Capricious Discipline

(1) For purposes of an arbitration proceeding concerning multiple instances of alleged misconduct by a law enforcement officer, if the arbitrator finds that a disciplining body has not met its burden of proof by a preponderance of the evidence to show that:

(a) The officer engaged in one or more of the instances of alleged misconduct, or

(b) That the disciplinary action taken against the officer was with just cause, as defined in ORS 236.350, for one or more of the instances of misconduct, the arbitrator must rescind the disciplinary action imposed on those allegations of misconduct and refer the matter back to the disciplining body.

(2) The disciplining body may, at its discretion, amend the disciplinary action on any instances of misconduct upheld by the arbitrator.

(3) In determining the reasonableness of a disciplinary action imposed by a disciplining body, including the appropriateness of the discipline imposed, the arbitrator shall rescind the discipline imposed and refer the matter back to the disciplining body if the arbitrator finds that the disciplinary action was arbitrary and capricious.

(4) Nothing in this rule precludes the exclusive representative of the law enforcement officer from continuing the arbitration proceeding regarding a disciplinary action imposed after the referral by the arbitrator.

(5) An arbitrator who refers a matter back to the disciplining body under paragraph (1) or (3), shall retain jurisdiction over any arbitration proceeding initiated under paragraph (4).

Statutory/Other Authority: ORS 243.812

Statutes/Other Implemented: ORS 243.812

History:

[CSLES 5-2022, adopt filed 09/30/2022, effective 09/30/2022](#)

265-005-0025

Incorporation of Rules

All disciplining bodies shall adopt policies incorporating these rules. The failure of a disciplining body to adopt policies incorporating these rules does not impair the application of these rules.

Statutory/Other Authority: ORS 243.812

Statutes/Other Implemented: ORS 243.812

History:

[CSLES 5-2022, adopt filed 09/30/2022, effective 09/30/2022](#)

265-005-0030

Application of Aggravating and Mitigating Factors

- (1) A disciplining body shall impose the presumptive sanction required by these rules unless it finds that one or more of the aggravating or mitigating factors enumerated in OAR 265-015-0035 justifies a departure from the presumptive sanction.
- (2) If the disciplining body determines that a mitigated sanction is justified, it shall impose a sanction that is no less than the mitigated sanction for the specific instance of misconduct but may impose a sanction that is no more than the presumptive sanction.
- (3) Except when the presumptive sanction for misconduct is termination, if the disciplining body determines that an aggravated sanction is justified, it shall impose a sanction that is no more than the aggravated sanction for the specific instance of misconduct but may impose a sanction that is no less than the presumptive sanction.
- (4) A disciplining body shall not apply an aggravating or mitigating factor if the factor is already included in determining whether misconduct occurred (example: intentionality).
- (5) A disciplining body has the discretion to impose mitigated or aggravated sanctions as permitted by these rules. A disciplining body shall document its reasoning, including whether it found aggravating or mitigating factors and the relative weight it gave to each factor, for imposing a disciplinary action other than the presumptive sanction.

Statutory/Other Authority: ORS 243.812

Statutes/Other Implemented: ORS 243.812

History:

[CSLES 5-2022, adopt filed 09/30/2022, effective 09/30/2022](#)

Division 10

Discipline Standards for Misconduct

265-010-0001

Sexual Assault

A disciplining body shall impose upon a law enforcement officer disciplinary action within the following disciplinary range upon a finding that the officer engaged in misconduct constituting an act of sexual assault:

- (1) The presumptive sanction shall be termination.
- (2) The mitigated sanction shall be suspension without pay, salary reduction, demotion, or a written reprimand.

Statutory/Other Authority: ORS 243.812

Statutes/Other Implemented: ORS 243.812

History:

[CSLES 5-2022, adopt filed 09/30/2022, effective 09/30/2022](#)

265-010-0005

Sexual Harassment

A disciplining body shall impose upon a law enforcement officer disciplinary action within the following disciplinary range upon a finding that the officer engaged in misconduct constituting sexual harassment:

- (1) The presumptive sanction shall be demotion, suspension without pay, or salary reduction.
- (2) The mitigated sanction shall be a written reprimand.
- (3) The aggravated sanction shall be termination.

Statutory/Other Authority: ORS 243.812

Statutes/Other Implemented: ORS 243.812

History:

[CSLES 5-2022, adopt filed 09/30/2022, effective 09/30/2022](#)

265-010-0010

Assault

A disciplining body shall impose upon a law enforcement officer disciplinary action within the following disciplinary range upon a finding that the officer engaged in misconduct constituting an act of intentional assault without justification:

- (1) The presumptive sanction shall be termination.
- (2) The mitigated sanction shall be suspension without pay, salary reduction, demotion, or a written reprimand.

Statutory/Other Authority: ORS 243.812

Statutes/Other Implemented: ORS 243.812

History:

[CSLES 5-2022, adopt filed 09/30/2022, effective 09/30/2022](#)

265-010-0015

Unjustified or Excessive Use of Physical or Deadly Force

- (1) A disciplining body shall impose upon a law enforcement officer disciplinary action of termination upon a finding that the officer engaged in misconduct constituting unjustified or excessive use of deadly physical force by the officer that results in death or serious physical injury.
- (2) A disciplining body shall impose upon a law enforcement officer disciplinary action within the following disciplinary range upon a finding that the officer engaged in misconduct constituting unjustified or excessive use of physical force by the officer that results in death or serious physical injury:
 - (a) The presumptive sanction shall be termination.
 - (b) The mitigated sanction shall be suspension without pay, salary reduction, demotion, or a written reprimand.

Statutory/Other Authority: ORS 243.812

Statutes/Other Implemented: ORS 243.812

History:

[CSLES 5-2022, adopt filed 09/30/2022, effective 09/30/2022](#)

265-010-0020

Conduct that is Motivated by or Based on a Real or Perceived Factor of an Individual's Race, Ethnicity, National Origin, Sex, Gender Identity, Sexual Orientation, Religion, or Homelessness

(1) A disciplining body shall impose upon a law enforcement officer disciplinary action within the following disciplinary range upon a finding that the officer engaged in misconduct in violation of statutory or constitutional law by intentionally targeting an individual for a suspected violation of law based solely on the individual's real or perceived race, ethnicity, national origin, sex, gender identity, sexual orientation, religion, or homelessness:

(a) The presumptive sanction shall be termination.

(b) The mitigated sanction shall be suspension without pay, salary reduction or demotion.

(2) It is not misconduct under this rule if the law enforcement officer is acting on a suspect description or information related to an identified or suspected violation of a provision of law.

Statutory/Other Authority: ORS 243.812

Statutes/Other Implemented: ORS 243.812

History:

[CSLES 5-2022, adopt filed 09/30/2022, effective 09/30/2022](#)

265-010-0025

Moral Character

(1) For the purposes of this rule, lack of good moral character means conduct constituting:

(a) A felony under state or federal law

(b) Domestic violence

(c) Stalking

(d) A drug-related offense, except for offenses involving use or possession of marijuana

(e) A bias or hate crime under state or federal law

(f) A sex crime

(g) Untruthfulness

(h) Misuse of authority for financial gain.

(2) If a law enforcement officer is convicted of a crime based on conduct identified in subsection (1) of this rule, proof of the conviction is conclusive evidence that the conduct occurred.

(3) A disciplining body shall impose upon a law enforcement officer disciplinary action of termination upon a finding that the officer engaged in misconduct demonstrating a lack of good moral character.

Statutory/Other Authority: ORS 243.812

Statutes/Other Implemented: ORS 243.812

History:

[CSLES 5-2022, adopt filed 09/30/2022, effective 09/30/2022](#)

265-010-0030

The Use of Drugs or Alcohol While on Duty

(1) A disciplining body shall impose upon a law enforcement officer disciplinary action within the following disciplinary range upon a finding that the law enforcement officer engaged in misconduct by unlawfully using a controlled substance while on duty.

(a) The presumptive sanction shall be termination.

(b) The mitigated sanctions shall include suspension without pay, a salary reduction, or demotion.

(2) A disciplining body shall impose upon a law enforcement officer disciplinary action within the following disciplinary range upon a finding that the law enforcement officer engaged in misconduct by being impaired to a noticeable or perceptible degree due to the consumption of an alcoholic beverage while reporting to duty or while on duty.

(a) The presumptive sanction shall be termination.

(b) The mitigated sanctions shall be suspension without pay, a salary reduction, demotion, or written reprimand.

(3) For the purposes of this rule, "being impaired to a noticeable and perceptible degree" includes having a BAC greater than 0.02.

Statutory/Other Authority: ORS 243.812

Statutes/Other Implemented: ORS 243.812

History:

[CSLES 5-2022, adopt filed 09/30/2022, effective 09/30/2022](#)

265-010-0035

Aggravating and Mitigating Factors

(1) Aggravating Factors:

(a) Prior disciplinary history.

(b) Delay in reporting.

(c) Intentional conduct.

(d) Significant impact upon the agency's mission, reputation, or relationship with the community.

(e) Significant nature and extent of property damage or harm.

(f) Efforts to conceal or cover up conduct or behavior.

(g) Does not accept responsibility if misconduct is undisputed.

(h) Motivated by personal interest or gain.

(i) Failure to meet documented expectations.

(j) Supervisory position.

(k) Failed or declined to attempt to de-escalate the encounter even though feasible to do so.

- (l) Low probability or limited potential for rehabilitation.
- (m) The nature of the event allowed time for deliberate reflection or action.
- (n) Victim's vulnerability.
- (o) The presence of training or experience that is germane to the incident.
- (2) Mitigating Factors:
 - (a) Positive employment history.
 - (b) Self-reported the violation.
 - (c) Unintentional conduct.
 - (d) Limited impact upon the agency's mission, reputation, or relationship with the community.
 - (e) Limited nature and extent of property damage or harm.
 - (f) Attempt to ameliorate or correct the conduct or behavior.
 - (g) Promptly accepted responsibility.
 - (h) Motivated by public interest or wellbeing of others.
 - (i) No repeated or other sustained misconduct.
 - (j) Role of the officer (subordinate to supervisor on scene).
 - (k) Attempted to de-escalate the encounter.
 - (l) Potential for rehabilitation.
 - (m) The nature of the event was unpredictable, volatile, or unfolded rapidly, not allowing time for deliberate action.
 - (n) Extraordinary circumstances or hardships that may be relevant.
 - (o) The lack of training or experience that is germane to the incident.

Statutory/Other Authority: ORS 243.812

Statutes/Other Implemented: ORS 243.812

History:

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