

Discipline Matrix Proposed Updates

SEXUAL ASSAULT (OAR 265-010-0001)

Definition: ORS 243.317

“Sexual assault” means unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat or intimidation.”

Current language:

MISCONDUCT	MITIGATED I	PRESUMPTIVE	AGGRAVATED
An act of sexual assault	<ul style="list-style-type: none">• Demotion• Salary Reduction• Suspension Without Pay• Written Reprimand	Termination	N/A

Proposed language:

MISCONDUCT	MITIGATED	MANDATED	AGGRAVATED
An act of sexual assault constituting a sex crime *	N/A	Termination	N/A

MISCONDUCT	MITIGATED	PRESUMPTIVE	AGGRAVATED
An act of sexual assault that does not constitute a sex crime	<ul style="list-style-type: none">• Written Reprimand	<ul style="list-style-type: none">• Demotion• Salary Reduction• Suspension Without Pay	Termination

*See also Moral Character.

SEXUAL HARASSMENT (OAR 265-010-005)

Definition: BOLI OAR 839-005-0030 Sexual Harassment in Employment

(1) Sexual harassment is unlawful discrimination on the basis of sex and includes the following types of conduct:

- (a) Unwelcome sexual advances, requests for sexual favors, or other conduct of a sexual nature when such conduct is directed toward an individual because of that individual's sex and:
 - (A) Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or
 - (B) Submission to or rejection of such conduct is used as the basis for employment decisions affecting that individual.
- (b) Any unwelcome verbal or physical conduct that is sufficiently severe or pervasive to have the purpose or effect of unreasonably interfering with work performance or creating a hostile, intimidating or offensive working environment.

Current language:

MISCONDUCT	MITIGATED	PRESUMPTIVE	AGGRAVATED
Sexual harassment	Written Reprimand	<ul style="list-style-type: none">• Demotion• Salary Reduction• Suspension Without Pay	Termination

Proposed language:

MISCONDUCT	MITIGATED	PRESUMPTIVE	AGGRAVATED
Sexual harassment *	Written Reprimand	<ul style="list-style-type: none">• Demotion• Salary Reduction• Suspension Without Pay	Termination

*See also Moral Character. Currently the definition of sexual harassment only applies to conduct within the workplace context. Sexual harassment outside of the workplace context, i.e. toward members of the public, should be addressed through Moral Character.

ASSAULT (OAR 265-010-0010)

Definitions: ORS 163.115 6(a)

“Assault” means the intentional, knowing or reckless causation of physical injury to another person. “Assault” does not include the causation of physical injury in a motor vehicle accident that occurs by reason of the reckless conduct of a defendant.

Current language:

MISCONDUCT	MITIGATED	PRESUMPTIVE	AGGRAVATED
An act of intentional assault without justification	<ul style="list-style-type: none">• Demotion• Salary Reduction• Suspension Without Pay• Written Reprimand	Termination	N/A

Proposed language:

MISCONDUCT	MITIGATED	MANDATORY	AGGRAVATED
An act of intentional or knowing assault without justification	N/A	Termination	N/A

MISCONDUCT	MITIGATED	PRESUMPTIVE	AGGRAVATED
An act of reckless assault without justification	<ul style="list-style-type: none">• Demotion• Salary Reduction• Suspension Without Pay• Written Reprimand	Termination	N/A

UNJUSTIFIED OR EXCESSIVE USE OF DEADLY FORCE (OAR 265-010-0015)

Definitions: ORS 161-015(3)

“Deadly physical force” means physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.

Current language:

UNJUSTIFIED OR EXCESSIVE USE OF DEADLY FORCE THAT RESULTS IN DEATH OR SERIOUS PHYSICAL INJURY (OAR 265-010-0015):

MISCONDUCT	MITIGATED	MANDATED	AGGRAVATED
Unjustified or excessive use of deadly physical force by the officer that results in death or serious physical injury	N/A	Termination	N/A

Proposed language:

MISCONDUCT	MITIGATED	MANDATED	AGGRAVATED
Unjustified or excessive use of deadly physical force by the officer.	N/A	Termination	N/A

UNJUSTIFIED OR EXCESSIVE USE OF PHYSICAL FORCE (OAR 265-010-0015)

Definitions: ORS 161-015(3)

Unjustified/excessive: Conduct that falls outside the range of acceptable use of force as defined in 161.233: (1) A peace officer may use physical force upon another person only when it is objectively reasonable, under the totality of circumstances known to the peace officer, to believe:

(a) That the person poses an imminent threat of physical injury to the peace officer or to a third person; or

(b) That the use of physical force is necessary to:

(A) Make a lawful arrest when the peace officer has probable cause to believe the person has committed a crime; or

(B) Prevent the escape from custody of the person when the peace officer has probable cause to believe the person has committed a crime.

(2) A peace officer may use physical force upon another person under this section only to the degree that the peace officer reasonably believes necessary to prevent physical injury under subsection (1)(a) of this section or to carry out a purpose described in subsection (1)(b) of this section.

Current language:

MISCONDUCT	MITIGATED	PRESUMPTIVE	AGGRAVATED
Unjustified or excessive use of physical force by the officer that results in death or serious physical injury	<ul style="list-style-type: none">• Demotion• Salary Reduction• Suspension Without Pay• Written Reprimand	Termination	N/A

Proposed language:

MISCONDUCT	MITIGATED	PRESUMPTIVE	AGGRAVATED
Unjustified or excessive use of physical force by the officer that results in death or serious physical injury	<ul style="list-style-type: none"> • Demotion • Salary Reduction • Suspension Without Pay 	Termination	N/A

MISCONDUCT	MITIGATED	PRESUMPTIVE	AGGRAVATED
Unjustified or excessive use of physical force by the officer that results in physical injury	<ul style="list-style-type: none"> • Demotion • Salary Reduction • Suspension Without Pay 	Termination	N/A

MISCONDUCT	MITIGATED	PRESUMPTIVE	AGGRAVATED
Unjustified or excessive use of physical force by the officer that results in no injury	<ul style="list-style-type: none"> • Written reprimand • No discipline* 	<ul style="list-style-type: none"> • Demotion • Salary Reduction • Suspension Without Pay 	Termination

*No discipline means non-disciplinary corrective action, as defined in _____.

ENGAGING IN MISCONDUCT DEMONSTRATING LACK OF GOOD MORAL CHARACTER (OAR 265-010-0025)

- (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.

Definitions OAR 265-005-0001

(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.

Current language:

MISCONDUCT*	MITIGATED	MANDATED	AGGRAVATED
Conduct constituting: a felony under state or federal law; domestic violence: stalking: a drug-related offense, except for offenses involving use or possession of marijuana; a bias or hate crime under state or federal law; a sex crime; untruthfulness; or misuse of authority for financial gain.	N/A	Termination	N/A

* Proof of conviction of a crime based on the listed misconduct is conclusive evidence that the misconduct occurred.

Proposed language:

MISCONDUCT*	MITIGATED	MANDATED	AGGRAVATED
Conduct constituting: a felony under state or federal law; domestic violence: stalking: a drug-related offense, except for offenses involving use or possession of marijuana; a bias or hate crime under state or federal law; a sex crime; untruthfulness; or misuse of authority.	N/A	Termination	N/A

*Proof of conviction of a crime based on the listed misconduct is conclusive evidence that the misconduct occurred.

New rule language:

Upon a sustained finding of misconduct in which the disciplinary body elects not to impose a disciplinary action, the disciplinary body shall apply a non-disciplinary corrective action which may include but is not limited to informal discussions, coaching, training, mediation, verbal warnings or letters of expectation.

