

Discussion Points (7/12/22)

—Prepared by staff—

Conduct that is Motivated by Suspect Classification

Required Standard:

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.

Terminable Misconduct (Profiling):

Except when a law enforcement officer is acting on a suspect description or information related to an identified or suspected violation of a provision of law, a disciplining body will 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.

Disciplinary Range:

Exclusive Termination

The sanction for an officer who has engaged in misconduct in violation of statutory or constitutional law by unlawfully targeting an individual based solely on the individual's real or perceived race, ethnicity, national origin, sex, gender identity, sexual orientation, religion or homelessness shall be termination.

Presumptive Termination

A. The presumptive sanction for an officer who has engaged in misconduct in violation of statutory or constitutional law by unlawfully targeting an individual based on a protected class shall be termination.

B. The mitigated sanction for an officer who has engaged in misconduct in violation of statutory or constitutional law by unlawfully targeting an individual based on a protected class shall be, upon the discretion of the disciplining body:

(1): Suspension without pay, reduction in salary, or demotion.

(2): Suspension without pay, reduction in salary, demotion, or written reprimand.

Conduct that is Motivated by Suspect Classification (cont.)

Terminable Misconduct (Hate Group):

A disciplining body will impose upon a law enforcement officer disciplinary action within the following disciplinary range upon a finding that the officer engaged in misconduct by knowingly joining or participating in any organization that promotes hatred or discrimination toward racial, religious, ethnic, or other groups or classes of individuals protected by law. (See May 25th meeting materials—International Association of Chiefs of Police Model Policy 10(e)).

Disciplinary Range:

Exclusive Termination

The sanction for an officer who has engaged in misconduct by joining or participating in a hate group shall be termination.

Presumptive Termination

A. The presumptive sanction for an officer who has engaged in misconduct by joining or participating in a hate group shall be termination.

B. The mitigated sanction for an officer who has engaged in misconduct by joining or participating in a hate group shall be, upon the discretion of the disciplining body:

(1): Suspension without pay, reduction in salary, or demotion.

(2): Suspension without pay, reduction in salary, demotion, or written reprimand.

Moral Character

Proposed Definition:

All law enforcement officers of this state must be of good moral character. A lack of “good moral character” may be established by reference to acts or conduct that reflect moral turpitude or to acts or conduct which would cause a reasonable person to have substantial doubts about the individual’s honesty, fairness and respect for the rights of others and for the laws of the state and the nation. The conduct or acts in question should be rationally connected to the officer’s fitness to perform the duties of a police officer.

Terminable Misconduct:

A disciplining body will impose upon a law enforcement officer disciplinary action within the following disciplinary range upon a finding that the officer demonstrated a lack of good moral character by engaging in misconduct constituting any of the following:

Categories submitted by Commissioner Karia:

- ⦿ A felony crime conviction or felonious misconduct*
- ⦿ Domestic violence as that term is used in ORS 135.230*
 - “Domestic violence” means abuse between family or household members.
 - “Abuse” means:
 - (a) Attempting to cause or intentionally, knowingly or recklessly causing physical injury;
 - (b) Intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury; or
 - (c) Committing sexual abuse in any degree as defined in ORS 163.415 (Sexual abuse in the third degree), 163.425 (Sexual abuse in the second degree) and 163.427 (Sexual abuse in the first degree).
- ⦿ Conviction of a crime that is a DPSST certification disqualifying crime under OAR 259-008-0300(2)
 - Felony convictions*
 - Conviction for drug-related offense, except for convictions involving use or possession of marijuana
 - Domestic violence conviction*
 - Bias or hate crime
 - Crimes requiring officer to register as a sex offender
- ⦿ Dishonesty related to officer’s duties as defined in 259-008-0300(3)(a)(A);
 - Dishonesty is intentional conduct that includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification or reckless disregard for the truth.

- Alternative 1: Dishonesty 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. PPB 0310.50.
 - Alternative 2: Dishonesty means a statement by a law enforcement officer that the officer knows to be untrue or that is deliberately misleading when such statement is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement is made.
 - Material means that which could have affected the course or outcome of any proceeding or transaction. ORS 162.065.
 - Exception: A statement is not considered dishonest 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 and must be temporary in nature. PPB 0310.50.
- ⦿ Public corruption for monetary gain (Misuse of Authority for Financial Gain)
 - Public corruption for monetary 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.

Other Misconduct:

- ⦿ Theft offenses
- ⦿ Official misconduct offenses

Disciplinary Range:

Exclusive Termination

The sanction for an officer who has engaged in misconduct by demonstrating a lack of good moral character shall be termination.

Presumptive Termination

A. The presumptive sanction for an officer who has engaged in misconduct by demonstrating a lack of good moral character shall be termination.

B. The mitigated sanction for an officer who has engaged in misconduct by demonstrating a lack of good moral character shall be, upon the discretion of the disciplining body:

(1): Suspension without pay, reduction in salary, or demotion.

(2): Suspension without pay, reduction in salary, demotion, or written reprimand.

Drug and Alcohol Use on Duty

Terminable Misconduct (Drugs):

Unless permitted by law enforcement agency policy pursuant to a law enforcement officer's official duties, a disciplining body will 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 or possessing a controlled substance while on duty.

Disciplinary Range:

Exclusive Termination

The sanction for an officer who has engaged in misconduct by unlawfully using or possessing a controlled substance while on duty shall be termination.

Presumptive Termination

A. The presumptive sanction for an officer who has engaged in misconduct by unlawfully using or possessing a controlled substance while on duty shall be termination.

B. The mitigated sanction for an officer who has engaged in misconduct by unlawfully using or possessing a controlled substance while on duty shall be, upon the discretion of the disciplining body:

(1): Suspension without pay, reduction in salary, or demotion.

(2): Suspension without pay, reduction in salary, demotion, or written reprimand.

Terminable Misconduct (Alcohol):

Unless permitted by law enforcement agency policy pursuant to a law enforcement officer's official duties, a disciplining body will 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 any degree due to the consumption of an alcoholic beverage while reporting to duty or while on duty.

Exclusive Termination

The sanction for an officer who has engaged in misconduct by being impaired to any degree due to the consumption of an alcoholic beverage while reporting to duty or while on duty shall be termination.

Presumptive Termination

A. The presumptive sanction for an officer who has engaged in misconduct by being impaired to any degree due to the consumption of an alcoholic beverage while reporting to duty or while on duty shall be termination.

B. The mitigated sanction for an officer who has engaged in misconduct by being impaired to any degree due to the consumption of an alcoholic beverage while reporting to duty or while on duty shall be, upon the discretion of the disciplining body:

(1): Suspension without pay, reduction in salary, or demotion.

(2): Suspension without pay, reduction in salary, demotion, or written reprimand.