

From: [Boss Frederick](#)
To: [ORLawEnf Commission](#)
Cc: [Kemple Toni C](#)
Subject: FW: Needed Change to How Proposed OAR 265-005-0020 is Constructed
Date: Friday, August 12, 2022 4:50:45 PM

From: Teague, John <TeagueJ@keizer.org>
Sent: Thursday, August 11, 2022 12:37 PM
To: Slauson Michael <michael.slauson@doj.state.or.us>; Boss Frederick <fred.boss@doj.state.or.us>
Subject: Needed Change to How Proposed OAR 265-005-0020 is Constructed

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Michael, Fred,

The outline of this rule is constructed incorrectly. The last clause of (1)(b) should appear in (1), so it needs to be changed from this:

265-005-0020

Multiple Instances of Misconduct

(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) Nothing in this rule precludes the officer from initiating an arbitration proceeding regarding a disciplinary action imposed after the referral by the arbitrator.

To this:

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(3) Nothing in this rule precludes the officer from initiating an arbitration proceeding regarding a disciplinary action imposed after the referral by the arbitrator.

I'm not sending this as a public comment, though if it must be in order to provoke the change, so be it.

John Teague
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