

Oregon Commission on Statewide Law Enforcement Standards of Conduct and Discipline

<https://justice.Oregon.gov/lesc>

The LESC rules apply to all “law enforcement agencies” and “law enforcement officers” (LEOs) in Oregon, as those terms are defined in ORS 243.809, including unionized LEOs. The LESC rules became effective on November 1, 2022; however, the effective date for the application of the LESC rules is different for unionized and non-unionized LEOs: for unionized LEOs, the LESC rules become effective when their collective bargaining agreement (CBA) is entered into or renewed on or after November 1, 2022.

“Law enforcement agency” means “an agency employing law enforcement officers to enforce criminal laws” and “law enforcement officer” means “a member of the Oregon State Police, a sheriff or a municipal police officer.” ORS 131.930. The LESC rules apply only to those officers as defined in that statute.

“Misconduct” is a broad term that is not limited just to a violation of specific LESC rules as identified in the Discipline Matrix; it also includes conduct that violates state, tribal or federal law or violates the policies of the law enforcement agency employing the LEO.

For unionized LEOs, the Oregon Legislature also revised “just cause” disciplinary standards and arbitration rules at ORS 243.706(3) and 243.808 under the Public Employee Collective Bargaining Act (PECBA). The revised disciplinary standards and associated arbitration standards become effective for unionized LEOs when their CBAs are entered into or renewed on or after July 1, 2021.

A “disciplinary action” for misconduct includes only the following personnel actions:

Written reprimand

Suspension without pay

Reduction in salary

Demotion

Termination

A “disciplining body” means a law enforcement agency or, if applicable, a civilian or community oversight board, agency or review body. Disciplining bodies are required to incorporate LESC rules in their policies, whether directly or by reference.

“Finding” refers to the final determination by the decision maker of a disciplining body—often the police chief or sheriff—that a LEO engaged in misconduct.

Step 1:

The disciplining body should conduct a full, fair, and complete investigation into the alleged misconduct by the LEO.

Step 2:

The disciplining body fulfills any applicable procedural due process steps, often referred to as “*Loudermill*” or “pre-disciplinary” meeting.

Step 3:

If the misconduct is proven and covered by the LESC rules, the disciplining body identifies the mandatory or presumptive disciplinary action in the Discipline Matrix.

A mandatory or presumptive disciplinary action imposed by the disciplining body applies for findings of misconduct under the LESC rules. Mandatory disciplinary actions are prescribed by the LESC rules and cannot be altered upon a finding of misconduct. In contrast, presumptive disciplinary actions may be modified by the disciplining body after the application of aggravating and mitigating factors, as more fully discussed below.

Step 4:

The disciplining body imposes the disciplinary action and documents its reasoning, including its compliance with LESC rules and whether it found and applied aggravating or mitigating factors and the relative weight given to each factor.

SEXUAL ASSAULT (OAR 265-010-0001)

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

SEXUAL HARASSMENT (OAR 265-010-005)

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

Further, for unionized LEOs, disciplinary actions may be subject to grievance and arbitration procedures under CBAs.

Substantively, the arbitrator is bound by ORS 243.706 and ORS 243.808-.812. The arbitrator must consider whether, for a disciplinary action imposed, the disciplining body proved by a preponderance of the evidence that the LEO engaged in the alleged misconduct and that disciplinary action taken against the LEO was with just cause under ORS 243.808(1)(a). The arbitrator will also consider the reasonableness of a disciplinary action, including specific requirements related to arbitrary/capricious discipline and termination cases under ORS 243.808(1)(b) and (c).

“Moral Character”

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.