

Commission on Statewide Law Enforcement Standards of Conduct and Discipline

Division 05

Definitions

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) "Excessive Force" means violation of the law enforcement agency's policy regarding the application of constitutionally permissible force.**
- ~~(8)~~ **(9)** "Exclusive representative" has the meaning given that term in ORS 243.650(8).
- ~~(9)~~ **(10)** "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)~~ **(11)** [ "~~Intentional~~" has the meaning given that term in ORS 161.085.] **"Intentionally" or "with intent," when used with respect to misconduct described by a rule, means that a person acts with a conscious objective to cause the result or to engage in the conduct so described.**
- ~~(11)~~ **(12)** "Justification" means a justifiable use of physical or deadly physical force pursuant to ORS 161.205 to ORS 161.267.
- ~~(12)~~ **(13)** "Just Cause" has the meaning given that term in ORS 236.350.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [~~italic and bracketed~~] is existing law to be omitted. New sections are **boldfaced** type.

**(14) “Knowingly” or “with knowledge,” when used in this rule means that a person acts with an awareness that the conduct of the person is of a nature so described or that a circumstance so described exists.**

~~(13)~~ **(15)** “Law enforcement agency” has the meaning given that term in ORS 243.812.

~~(14)~~ **(16)** “Law enforcement officer” has the meaning given that term in ORS 243.812.

~~(15)~~ **(17)** “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)~~ **(18)** “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.

**(19) “Misuse of Authority by soliciting or engaging in sexual acts or favors of a sexual nature” occurs when a law enforcement officer, within the scope of their employment, exercising police powers, or stemming from a law enforcement encounter or action, solicits or engages in sexual acts or favors of a sexual nature from another individual, including, but not limited to, a person detained or in custody, victim, witness, or person associated with a law enforcement encounter. This conduct includes, but is not limited to, solicitating acts or favors of a sexual nature for the benefit of themselves (or other), or action in exchange for leniency, forbearance, or other benefit given to the individual as related to a law enforcement action, process, or consequence. This definition is broadly construed. This definition is not intended for circumstances of consensual relationships without misuse of authority. A person detained in custody cannot provide consent.**

~~(17)~~ **(20)** “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.

**(21) “Non-Disciplinary Corrective Actions” means an action taken by a disciplinary body in lieu of disciplinary action to assist the officer in improving the officer’s performance or conduct, and may include, but is not limited to, an informal discussion, coaching, counseling, training, warning, or letter of expectation.**

~~(18)~~ **(22)** “Physical Force” has the meaning given that term in ORS 161.015.

~~(19)~~ **(23)** “Physical Injury” has the meaning given that term in ORS 161.015.

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**(24) “Recklessly,” when used with respect to a result or to a circumstance described by a rule, means that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.**

~~(20)~~ **(25)** “Serious Physical Injury” has the meaning given that term in ORS 161.015.

~~(21)~~ **(26)** “Sexual assault” has the meaning given that term in ORS 243.317.

~~(22)~~ **(27)** “Sex crime” has the meaning given that term in ORS 163A.005.

~~(23)~~ **(28)** “Sexual Harassment” has the meaning given that term in OAR 839-005-0030.

~~(24)~~ **(29)** “Stalking” means engaging in conduct constituting the crime of stalking in ORS 163.732.

~~(25)~~ **(30)** “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.

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