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## Policies and Procedures Update

The Universal Health Plan Governance Board (The Board) and committees are subject to public meetings law. According to Oregon law (ORS 192.620), the policy of Oregon's public meetings law is to ensure the public is made aware of "deliberations and decisions of governing bodies and the information upon which such decisions were made." For this reason, that law further explains, "a quorum of a governing body may not meet in private for the purpose of deciding on or deliberating toward a decision." A simple majority constitutes a quorum. For The Board, a quorum is five members.

The public meetings policy of ensuring that deliberations and decisions are made in public has been included in Oregon's laws for over 40 years. In 2023, the Oregon Legislature updated Oregon public meetings law with the passage of [HB 2805](#). HB 2805 made the following key changes to ORS [192.610 – 192.690](#):

- A definition of "convening" was updated in the law to include meeting in a physical location, using electronic, video or telephonic communication, using "serial" electronic written communication among participants and using an "intermediary" to communicate among participants. Under this new definition, it may be considered an unnoticed public meeting if:
  - a. a quorum discusses an issue via **email, video conference, or phone**;
  - b. successive or "**serial**" discussions of less than a quorum occur until eventually a quorum has participated in email deliberations; or
  - c. a single Board or committee member or another "**intermediary**" has successive discussions with a quorum of members.
- [The Oregon Government Ethics Commission](#) is responsible for public meetings law training and enforcement.
- Individual members of governing bodies may be held liable for violations of the law.

It is the responsibility of the Oregon Department of Justice (DOJ) to ensure The Board understands the new law and liabilities so The Board can assume its own acceptable level of risk.

### **Board Policies and Procedures:**

The Board voted and updated the following in its [Policies and Procedures](#) at the November, 21, 2024 board meeting, based on the DOJ's guidance and The Board's assumed risk tolerance:

The board and its committees hold a firm commitment to transparency and the preservation of public trust. The board also recognizes the importance to have

some limited communication among members to facilitate the board's work and accomplish its deliverables as laid out in Senate Bill 1089. Communication among less than a quorum of the board is permitted, as long as it does not create a serial communication creating a quorum.

A quorum of the members of the board will not, outside of meetings conducted in compliance with the Public Meetings Law, use a series of communications of any kind, directly or through intermediaries, for the purpose of deliberating, making recommendations, or deciding on any matter that is within the jurisdiction of the board. All board and committee members are encouraged to take the training offered by the Oregon Government Ethics Commission (OGEC) and to submit inquiries to OGEC if unsure about compliance.

### **Plain Language Summary:**

Board members and committee members may communicate with each other or email each other between meetings. However, the board policy urges members to be cautious. If you have conversations or email exchanges with several members over time on the same topic, you could inadvertently be convening a quorum. If those conversations lead to a recommendation or decision of any kind, a grievance could be filed. Responding to grievances would occupy valuable board and committee time and possibly result in financial penalties to board and possibly committee members.

### **Grievance Process:**

The Oregon Government Ethics Commission has established a grievance process as a part of the rulemaking for HB 2805 (2023) and you can find the detailed process on the [OGEC website](#).

If a member of the public believes that a public body, such as The Board, has violated public meetings law, the grievance process to address the violation is as follows:

1. The person must first submit a written grievance directly to The Board within 30 days of the alleged violation, and include the date of submission, their name and contact information, the date of the alleged violation, and a description of the violation.
2. The Board must respond directly to the grievance within 21 days of submission. They must specify whether they deny or admit to the facts and circumstances described in the grievance, and whether they deny or admit that a violation of public meetings law occurred.
3. The person must wait to receive the response from The Board before they may file a formal complaint. The complaint must include a copy of the person's grievance and a copy of The Board's response or affirmation that no response was received.

If a person files a grievance with The Board, receives a response, and chooses to file a complaint, OGEC will administer the steps of the [complaint process](#), including a review, investigation, hearing, and appeal. OGEC may order sanctions or financial penalties in response to a complaint.

**Best Practices:**

Members of The Board and its committees are encouraged to use caution when communicating with each other between properly noticed public meetings. Suggested best practices include:

1. Refrain entirely from privately communicating with fellow Board or committee members between meetings, and instead choose to consult with other professional and personal contacts to invite diverse perspectives on issues before The Board.
2. Limit private communications with fellow Board or committee members to essential factual information only, and refrain from seeking or sharing opinions that may be considered deliberations.
3. Only communicate with fellow Board or committee members one-on-one, and do not communicate one-on-one with half or more members (a quorum) of any group in between properly noticed public meetings.
4. Exercise caution in all communications, and only offer deliberations and decisions during properly noticed public meetings.
5. Familiarize yourself with your personal liability as a Board member and the consequences of violating the law. Consult with OGEC if you are not sure whether your communication(s) would violate the law.