

Members:

Susan Mandiberg, Chair
Robert Harris
Addie Smith



Executive Director:

Jessica Kampfe

**Oregon Public Defense Commission
Governance Subcommittee Meeting**

*Meeting will occur virtually
Thursday, February 6, 2025
9:00am to 10:30am PST
Via Zoom**

Administrative Announcement

This is a public meeting, subject to the public meeting law and it will be recorded. Deliberation of issues will only be conducted by Commission members unless permitted by the Chair. Individuals who engage in disruptive behavior that impedes official business will be asked to stop being disruptive or leave the meeting. Additional measures may be taken to have disruptive individuals removed if their continued presence poses a safety risk to the other persons in the room or makes it impossible to continue the meeting.

AGENDA

Approx. Time	Item	Lead(s)
9:00-9:05	Welcome	Chair Mandiberg
9:05-10:30	Discussion: Amendment of OPDC Bylaws	Chair Mandiberg
10:30	**Adjourn**	

**To join the Zoom meeting, click this link: <https://zoom.us/j/99782357158>. This meeting is accessible to persons with disabilities or with additional language service needs. Our Zoom virtual meeting platform is also equipped with Closed Captioning capabilities in various languages, which agency staff can assist you with setting up ahead of meetings. Requests for interpreters for the hearing impaired, for other accommodations for persons with disabilities, or for additional interpreter services should be made to info@opdc.state.or.us.*

Please make requests as far in advance as possible, and at least 48 hours in advance of the meeting, to allow us to best meet your needs.

Listed times are an estimate, and the Chair may take agenda items out of order and/or adjust times for agenda items as needed.

BYLAWS

Article 1

AGENCY NAME, AUTHORITY, MISSION, AND BASIC DEFINITIONS

- (1) **Name.** The name of this agency is the Oregon Public Defense Commission (“OPDC”).
- (2) **Authority.** The OPDC was established pursuant to ORS 151.213, as amended by SB 337 (2023), effective January 1, 2024. The OPDC is governed by a 13-member commission (“Commission Members”), which includes nine Voting Members and four Non-voting Members.
- (3) **Mission.**
 - (a) The OPDC’s mission is to establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution, Oregon and national standards of justice, and Oregon statutes.
 - (b) To achieve this mission, the Commission Members shall ensure furtherance of the goals articulated in ORS 151.216 by adopting policies, procedures, standards, and guidelines regarding those mandates, including the public defense service delivery model; public defense provider caseload and workload; qualification and performance standards; compensation, fees, expenses, and reimbursement; budget, resources, and funding; training, supervision, and oversight; data collection; and eligibility for court appointed counsel. The Commission adopts the principles outlined in the Oregon DEI Action Plan [\[hyperlink\]](#) in all areas under its jurisdiction and strives to ensure systems that recognize diversity and afford justice equitably and inclusively to all persons.
 - (c) To further achieve this mission the Commission Members, Executive Director, and OPDC Staff shall consider the perspectives of public defense providers, persons with lived experience in, or from communities impacted by the programs in areas under OPDC’s jurisdiction and other members of the public with an interest in the provision of services provided by those programs.
- (4) **Basic Definitions.** The following definitions govern usage in these Bylaws:
 - (a) “Commission” means Voting and Non-voting Commission Members acting in their oversight capacity.
 - (b) “Staff” means OPDC employees other than the Executive Director.
 - (c) “Executive Director” means the person selected under ORS 151.213 ~~by the Commission~~ to carry out the duties set forth in ORS 151.219 and in these Bylaws.
 - (d) “Oversight” means exercising governance, supervision, direction, and guidance to the Oregon Public Defense Commission pursuant to ORS Chapter 151; it does not include interactions between the Executive Director or staff and Non-voting Members in their individual, contract, or legislative capacities.

Article 2

COMMISSION MEMBERSHIP

- (1) Membership.** Membership is defined by ORS 151.213.
- (2) Terms of Office.** Terms of office are four years, except for the initial terms created by SB 337 (2023) to stagger appointments. Terms begin on January 1 in the first year and expire on December 31 in the final year.
- (3) Appointments.** Appointments are made pursuant to ORS 151.213. Commission Members may be reappointed but may serve no more than two consecutive four-year terms. Commission Members appointed to fill a vacancy assume the term for the Member they replaced. If a vacancy occurs and is not filled by the appointing authority within 45 days the remaining Voting Members of the Commission shall, by a majority vote, select a Member to fill the vacancy for the remainder of the term.
- (4) Termination.** A Commission Member may be removed pursuant to ORS 151.213(3) and ORS 182.010.
- (5) Resignation.** A Commission Member who seeks to resign shall provide written notice to the appointing authority, the Chair of the OPDC, and the Executive Director.
- (6) Onboarding and Training.** New appointees shall attend an onboarding session as determined by the Executive Director. Members shall attend all trainings as required by Oregon law.
- (7) Chair and Vice Chair.**
 - (a) Voting Members shall elect, by majority vote, a Chair and Vice Chair of the Commission.
 - (b) The Chair is the public liaison of the Commission Members. It shall be the responsibility of the Chair or other person as directed by the Chair to speak on behalf of the Commission Members for official information concerning the OPDC.
 - (c) The Chair shall lead and manage Commission meetings, shall coordinate the planning of Commission meeting agendas with the Executive Director, and shall join with the Executive Director to present the OPDC's annual budget to the Legislative Assembly.
 - (d) The Vice Chair shall lead and manage Commission meetings when the Chair is unavailable and support the Chair in furtherance of their responsibilities as requested.
- (8) Ethics and Conflicts of Interest.**
 - (a) Commission Members shall comply with the government ethics provisions of ORS Chapter 244.
 - (b) A Commission Member has an actual financial conflict of interest if the proposed action would provide a financial benefit or detriment to the Member, the Member's relative, or any business with which the Member or their relative is associated. When met with an actual conflict of interest, the Member must announce publicly the nature of the conflict and refrain from discussion on the issue. The Member may not vote on the issue from

which the conflict arises unless the Member's vote is necessary to meet the minimum number of votes required to take official action.

- (c) A Member has a potential conflict of interest if the proposed action could provide a financial benefit or detriment to the Member, the Member's relative, or any business with which the Member or their relative is associated. When met with a potential conflict of interest, the Member must announce publicly the nature of the conflict but may continue to discuss the issue. The Member may vote on the issue from which the potential conflict arises.

(9) Communications Not Subject to Public Meeting Laws.

- (a) Commission Members may communicate orally or in writing with other Commission Members to the extent that communication does not violate ORS Chapter 192.
- (b) Communications with OPDC staff.
 - (i) Commission Members may communicate orally or in writing with OPDC staff on non-substantive issues, such as scheduling and IT support.
 - (ii) When acting in an oversight capacity Commission Members should not communicate orally or in writing with OPDC staff members regarding agency business without prior authorization from the Executive Director. The Executive Director or designee shall communicate such authorization in writing to the staff member and the Commission Member, including by email.
 - (iii) Individual Commission Members, in their personal capacities, may communicate orally or in writing with OPDC staff members; when doing so they shall make it clear that they do not speak for the Commission.
 - (iv) Nothing in this section is meant to prohibit OPDC staff members from disclosing to Commission Members information the staff member reasonably believes to be evidence of a violation of any federal, state, or local law, rule, or regulation or mismanagement, gross waste of funds, or abuse of authority, or substantial and specific danger to public health and safety resulting from OPDC action.

(10) Compensation and Expenses.

- (a) Voting and Non-voting Members are entitled to compensation and expenses as provided in ORS 151.213(8) and ORS 292.495.
- (b) Members entitled to compensation shall submit the information required by standards and procedures adopted by the Executive Director.
- (c) Indemnification. OPDC Commission Members, officers, employees, and agents shall be indemnified in the manner provided by ORS 30.285.

ROLES AND RESPONSIBILITIES GENERALLY

(1) Commission Members. Commission Members are responsible for governing and providing oversight to the OPDC, pursuant to the requirement of ORS 151.213 and 151.216.

(a) Commission Members shall:

- (i) Review, and provide input prior to an approval vote, the policies, procedures, standards, and guidelines required by ORS 151.216 regarding contracting, funding, compensation of counsel, resources, operations, caseloads and statewide workloads, data collection, training and supervision of appointed counsel, costs, overhead, pre-authorization requirements, financial eligibility of represented persons with appointed counsel, compensation plans, classification systems, and affirmative action plans.
- (ii) Review the budget of the Commission and provide input before any approval vote;
- (iii) Review the Commission's annual report prior to the vote by Voting Members;
- (iv) Meet as needed to carry out their responsibilities.
- (v) Inform the Executive Director and the Chair as soon as practicable of an inability to attend a scheduled, special, or emergency meeting. The Chair shall maintain a record of absences and any stated reasons for such absences and may communicate the information to the appointing authority.

(b) Voting Commission Members shall:

- (i) Approve by majority vote the policies, procedures, standards, and guidelines required by ORS 151.216 before they take effect;
- (ii) Approve by majority vote the budget of the Commission before submission to the Legislative Assembly;
- (iii) Set biennial performance expectations for the Executive Director and require a performance review at least every two years in September in the odd numbered years based on those expectations. The performance review may include recommendations.
- (iv) Approve by majority vote the Commission's annual report prior to its submission pursuant to ORS 151.219.

(c) Commission Members shall not make any decision regarding the handling of any individual case; have access to any case file or interfere with the Executive Director or OPDC staff in carrying out professional duties involving the legal representation of public defense clients.

(d) Individual Commission Members, in their personal capacities, may advocate for or against legislation before the Legislative Assembly; when doing so they shall make it clear that they do not speak for the Commission.

Adopted by Commission on April 17, 2024

- (e) Individual Commission Members may, in their personal capacities, communicate with the press, members of the public, or both; when doing so Members shall make it clear that they do not speak for the Commission. An individual Commission Member may not act as spokesperson for the Commission unless authorized to do so in writing by the Chair.

(2) Executive Director.

- (a) The Executive Director is the chief executive officer for the Commission, the public liaison for OPDC, and the primary liaison between the Commission Members (voting and non-voting) and OPDC staff. The Executive Director shall ensure the agency carries out the policy directives established by the Commission.
- (b) The Executive Director is appointed and retained as provided by ORS 151.213.
- (c) The Executive Director of the Commission shall carry out the duties set out in ORS 151.219.
- (d) The Executive Director shall prepare an annual report covering the topics listed in Art. 3(1)(a)(i) and (ii) and submit it by December 31 of the calendar year as required by ORS 151.219 .

(3) OPDC Staff.

- (a) OPDC staff is responsible for agency administration and operations, and it performs its actions through the authority of its Executive Director, as defined by ORS 151.219.
- (b) OPDC staff shall carry out the duties set out in ORS 151.216.
- (c) OPDC auditors shall present an internal audit report to the Commission at least yearly.

Article 4

MEETINGS

(1) Public Meeting Laws. All meetings and executive sessions shall comply with public meeting laws pursuant to ORS Chapter 192.

(2) Regular Meetings.

- (a) Schedule and Notice. Commission Members shall meet according to a regular schedule, established at the first meeting of each calendar year and adjusted as necessary throughout the year. Notice of meetings shall be given to Members and posted on the OPDC website as early as practicable.
- (b) Agendas.
 - (i) Regular Commission meeting agendas will be finalized by the Executive Director and the Chair of the Commission. Agendas shall be determined with a focus on furthering the Commission’s mission as set out in Art. I of these Bylaws.

- (ii) Any Voting or Non-voting Member of the Commission may request the Chair to include an item on the agenda of an upcoming meeting no later than 10 business days prior to the meeting. If the item does not appear on the agenda, a majority of Voting Members may place the item on the agenda for the subsequent meeting.
 - (iii) Items to be voted on at an upcoming meeting shall be labeled as action items on the meeting agenda. All action items shall include time for discussion before a vote occurs.
 - (iv) OPDC staff shall publish the agenda to Commission Members and the public one week in advance of the meeting unless good cause is shown, as jointly determined by the Executive Director and the Chair.
 - (v) The Executive Director and the Chair, in agreement, may amend the agenda up until the start of the meeting. No action items may be added within one week of the meeting.
- (c) Materials.
- (i) OPDC staff shall publish materials to Commission Members and the public one week in advance of the meeting in which they are to be considered unless good cause is shown, as jointly determined by the Executive Director and the Chair.
 - (ii) OPDC staff shall prepare meeting materials in plain English. Technical language shall be defined and clarified for ease of access to non-technical readers. All acronyms shall be explained in full the first time they are used in a document.
- (d) Conduct of Regular Meetings.
- (i) The Commission may conduct meetings in-person, virtually, or through a combination of in-person and virtual attendance. All meetings shall afford the public the opportunity to access and attend the meeting virtually.
 - (ii) A majority of Voting Members constitutes a quorum of the Commission for the transaction of business at regular commission meetings. A quorum of the Commission is required to decide an action item and to deliberate on or discuss items that are likely to come before the Commission as an action item. A quorum is not required to receive testimony and similar input from staff or stakeholders and to ask questions of the person presenting.
 - (iii) Virtual meetings: cameras and identification. To ensure accurate assessment of a quorum during virtual meetings, Commission Members shall have their names posted and, to the extent practicable, their cameras on. All Voting Members shall have cameras on during a vote. Commission staff shall have names posted but may turn cameras off.
 - (iv) The Commission will not use Robert's Rules of Order in conducting a meeting but will follow the procedural rules set out in these bylaws.
 - (v) The Chair shall lead and manage the meeting, or the Vice-chair in the Chair's absence. Public comment may be allowed and shall be posted on the agenda when authorized.

Deliberation of issues will be conducted only by Commission Members, but the Commission may authorize OPDC staff or members of the public to provide information on any topic.

(vi) Motions.

- a. Any Voting Member of the Commission may make a motion regarding a posted action item, and that motion must receive the endorsement of a second Voting Member of the Commission before a vote can occur.
- b. Once a motion has been made and received an endorsement from a second Voting Member, there shall be a period for discussion.
- c. Following the discussion, the motion must be voted upon unless (1) the Member who made the motion withdraws the motion, or (2) the Member who provided the second endorsement withdraws that endorsement and the motion fails to get another second endorsement.

(vii) Voting.

- a. Commission Members must be present to vote.
- b. Commission Members must vote yea or nay, as no abstentions are allowed. Voting Members may explain on the record their reasons for a yea or nay vote or for asserting a conflict of interest.
- c. At a virtual meeting, or if any Voting Member is attending virtually, the Chair shall conduct a roll-call vote. If all Voting Members who are attending are in person, the Chair shall inquire whether there are any objections to adopting the motion under consideration. If no objections are made, the motion will pass, and it will be recorded as endorsed by all Voting Members present. If any Member of the OPDC objects to the motion, a roll call vote will be held.

(viii) Meeting Records and Minutes. All meeting materials, minutes, transcripts, and public comment shall be stored by OPDC and placed on the OPDC website for public access as soon as practicable.” A link to the meeting video shall be published on the website within five days after the meeting.

(ix) OPDC staff shall provide and publish one or more mechanisms whereby persons requiring reasonable accommodations to fully participate in a meeting may request such accommodations no later than the close of business 48 hours prior to the meeting. OPDC staff shall take all reasonable steps to ensure that such accommodations are provided.

(e) Public Comment.

- (i) Oral. Members of the public may apply to the Commission for the opportunity to comment in person at Commission meetings. Such applications must be received by the Commission by the close of business the business day prior to the date scheduled for the meeting. The Chair shall allow all reasonable requests for public comment.

Public comment shall be limited to 3 minutes unless, in the Chair's sole discretion, more time is allowed.

- (ii) Written. Members of the public may submit written comments regarding items on the agenda of upcoming meetings.
- (iii) Comment regarding action items shall be submitted no later than two (2) business days prior to the meeting at which the item is to be considered.
- (iv) Submissions received by the close of business two (2) business days in advance of the meeting in which they are to be considered shall be submitted to Voting and Non-voting Members and posted to the public on the OPDC website prior to the meeting.
- (v) Submissions received after a meeting and within 48 2 business days hours from the posted meeting time. shall be submitted to Voting and Non-voting Members and posted to the public on the OPDC website as soon as practicable; in addition, such comments shall be included in the material for the subsequent OPDC regular meeting.

(3) Informational Meetings.

- (a) Authority. The Chair of the Commission may call special meetings of the Commission to gather information relevant to its mission. These may include ~~special~~ meetings dedicated to gathering input from members of the public, including those with lived experience in, or from communities impacted by the systems under the Commission's jurisdiction with regards to specific issues or regions of the State.
- (b) Schedule and Notice. Notice of informational meetings shall be given to Members and posted on the OPDC website as early as practicable.
- (c) Agendas. Agendas shall be prepared in accordance with sec. (2)(b) except that the agenda may not contain any action items.
- (d) Materials. Materials shall be provided to members and posted on the OPDC website in accordance with section (2)(c).
- (e) Conduct of Informational Meetings. Informational Meetings shall be conducted in accordance with sec. (2)(d) with the following exceptions:
 - (i) Action items Commission Members may not make motions calling for votes and may not vote on action items during an Informational Meeting.
- (f) Public input
 - (i) Public input: oral. Members of the public who want to provide oral input are encouraged to register in advance as provided in conjunction with the meeting notice on the OPDC website; at the discretion of the Chair, members of the public who have not registered in advance may be allowed to provide oral input at the meeting.
 - (ii) Public input: written. Members of the public may submit written comments regarding items on the agenda of an upcoming informational meeting. Such written input shall be

submitted no later than two (2) business days after the meeting for which the comment is relevant.

(4) Emergency Meetings.

(a) Authority.

- (i) The Chair may call an emergency meeting only if there is an actual emergency that renders impractical the twenty-four-hour notice required for a special meeting.
- (ii) An emergency is a situation in which adhering to the notice requirements of this Article increases the likelihood or severity of injury or damage to persons or property, immediate financial loss, or disruptions to the provision of public defense services that require an immediate response.

(b) Schedule, Notice and Materials.

- (i) Notice of the meeting, the agenda, and any meeting materials shall be provided to all Members and posted to the public on the OPDC website as early as practicable prior to the meeting.
- (ii) The emergency meeting notice shall state the nature of the emergency and provide, at a minimum, the meeting date, time, place, and (in the event of a virtual meeting) access information. Notice of the meeting shall be posted on the OPDC website as quickly as possible.
- (iii) OPDC staff shall prepare meeting materials in plain English. Technical language shall be defined and clarified for ease of access to non-technical readers. All acronyms shall be explained in full the first time they are used in a document.

(c) Agendas.

- (i) Emergency meeting agendas will be finalized by the Executive Director and the Chair of the Commission. Agendas shall be determined with a focus on furthering the Commission's mission as set out in Art. I of these Bylaws.
- (ii) Items to be voted on at an emergency meeting shall be labeled as action items on the meeting agenda. All action items shall include time for discussion before a vote occurs.
- (iii) OPDC staff shall publish the agenda to Commission Members and the public in conjunction with the notice of the emergency meeting unless good cause is shown, as jointly determined by the Executive Director and the Chair.

(d) Conduct of emergency meetings. Emergency meetings shall be conducted in accordance with sec. (2)(d), and the reason for the emergency shall be stated at the outset of the meeting.

(e) Public comment. Members of the public may apply to the Commission for the opportunity to comment in person at an emergency meeting. Such applications must be received by the Commission by two (2) hours prior to the emergency meeting. Members of the public

may submit written comments regarding matters discussed at the emergency prior to the meeting or up to 2 business days from the posted meeting time.

- (5) Executive Sessions.** The Commission may meet in executive session pursuant to ORS 192.660, and the notice and agenda shall state the provision of law authorizing the executive session.

Article 5

SUBCOMMITTEES, AUDIT COMMITTEE, EXTERNAL ADVISORY GROUPS

(1) Subcommittees

- (a) The Commission Chair, in consultation with OPDC staff and Voting and Non-voting Members of the Commission, may create standing or *ad hoc* subcommittees to advise the Commission. The Chair shall put on the record the members of the subcommittee and the nature of the subcommittee's charge.
- (b) A subcommittee must have at least three, but no more than four, Voting Members. The Chair shall appoint subcommittee members and may ask for volunteers from among Voting and Non-voting Members.
- (c) Each subcommittee shall elect a chair to conduct the business of the subcommittee and to report to and consult with the Commission Chair.
- (d) The subcommittee chair may invite Voting and Non-voting Members, OPDC staff, legislators, staff of Oregon executive, judicial and legislative agencies, and members of the public to attend subcommittee meetings in an advisory capacity. Consideration will be given to gathering input from OPDC providers and persons with lived experience in, or communities impacted by, programs under OPDC's jurisdiction.
- (e) Subcommittee meetings.
 - (i) All subcommittee meetings shall comply with public meeting laws pursuant to ORS Chapter 192.
 - (ii) The subcommittee chair may schedule meetings as necessary to accomplish subcommittee business.
 - (iii) Agendas.
 - a. Subcommittee meeting agendas will be finalized by the subcommittee chair with a focus on furthering the Commission's mission as set out in Art. I of these Bylaws.
 - b. By 4 business days prior to a meeting, the subcommittee chair shall create an agenda. Items to be voted on at an upcoming subcommittee meeting shall be labeled as action items on the meeting agenda. At the request of any Voting or Non-voting Member of the subcommittee, up to and including the start of a

meeting, the subcommittee chair may amend the agenda to include an additional non-action item.

- c. OPDC staff shall publish the agenda and meeting materials by 3 business days prior to a meeting unless good cause is shown, as determined by subcommittee chair.

(iv) Materials.

- a. OPDC staff shall publish materials to subcommittee members and the as soon as practicable in advance of the meeting unless good cause is shown, as jointly determined by the Executive Director and the Chair.
- b. OPDC staff shall prepare materials in plain English. Technical language shall be defined and clarified for ease of access to non-technical readers. All acronyms shall be explained in full the first time they are used in a document.

(v) Conduct of subcommittee meetings.

- a. Subcommittee meetings shall be conducted in accordance with the provisions of Art. 4(2)(d)(i) and (iii)-(iv).
- b. A majority of voting members constitutes a quorum of the subcommittee. A quorum of the subcommittee is required to decide an action item or to deliberate toward making a decision.
- c. Any Voting Member of the subcommittee may make a motion regarding a posted action item. Motions shall be handled in accordance with the provisions of Art. 4(2)(d)(vi) b and c.
- d. Votes shall be handled in accordance with the provisions of Art. 4(2)(d)(vii), with the subcommittee chair assuming the role given the Commission Chair in those provisions.
- e. Meeting records and minutes shall be handled in accordance with the provisions of Art. 4(2)(d)(viii).

(2) **Audit Committee.** OPDC may approve an audit committee charter and audit committee to assist OPDC auditors in their audit function. Any audit committee shall include one Voting Member of the Commission.

(3) Advisory Committees and Workgroups.

- (a) The Executive Director may, after consultation with the Chair, create advisory committees and workgroups as needed.
- (b) At the Executive Director's discretion, advisory committees and workgroups may include Voting and Non-voting Members, OPDC staff, legislators, staff of Oregon executive, judicial and legislative agencies, and members of the public. Consideration will be given to gathering input from OPDC providers and persons with lived experience in, or communities impacted by, programs under OPDC's jurisdiction.

Article 6

GRIEVANCE PROCEDURE

Persons aggrieved by OPDC actions or inaction should seek redress as follows:

- (1) If the complaint is a consequence of OPDC policy, a letter should be addressed to the Chair of the Commission requesting the complaint to be placed on the Commission's meeting agenda; subject to the provisions of Art. 4(7)(a), the Chair shall have the sole discretion either to place the item on the agenda of an upcoming meeting or to refer the matter to the Executive Director for investigation.
- (2) If the complaint relates to administrative practices of the OPDC, the complainant should address a letter to the Executive Director of the OPDC; a complainant who is unsatisfied with how the complaint is handled may address a letter to the Chair of the Commission requesting the complaint to be placed on the Commission's meeting agenda; the Chair shall have the sole discretion either to place the item on the agenda of an upcoming meeting or to refer the matter to the Executive Director to report to the Chair on resolution of the complaint.
- (3) If a Voting or Non-voting Member is approached by an aggrieved person the Member should direct the person to the correct course of action to be pursued; the Member shall not discuss the complaint with the aggrieved person.
- (4) All communications covered by sub-sections (1) through (3) shall be in writing. A Member who is approached by word of mouth shall so inform the aggrieved persons and shall send a memorandum to the Chair identifying the aggrieved persons and indicating the time of the conversation and the instructions conveyed by the Member to the aggrieved person.

Article 7

AMENDMENTS

These bylaws may be amended by a two-thirds vote of the Voting Members at any meeting provided the topic is posted as an action item and the proposed language is provided to all Voting and Non-voting Members one week prior to the meeting.

Division 50 PUBLIC MEETINGS LAW

199-050-0005

Definitions

The following definitions are provided for words or terms as they are used in ORS 192.610 to ORS 192.705 and as they are used in these rules:

(1) “Communicate” means the act of a person expressing or transmitting information to another person through verbal, non-verbal, written, or electronic means. Non-verbal means include gestures, such as thumbs-up and thumbs-down, as well as sign language.

(2) “Communication” means the expression or transmission of information from one person to another through verbal, non-verbal, written, or electronic means. Non-verbal means include gestures, such as thumbs-up and thumbs-down, as well as sign language.

(3) “Decision,” “deliberation,” “executive session,” “governing body,” “meeting,” and “public body” have the meaning given those terms in ORS 192.610.

(4) “Decision-making process” means the process a governing body engages in to make a decision, such as: (a) identifying or selecting the nature of the decision to be made; (b) gathering information related to the decision to be made; (c) identifying and assessing alternatives; (d) weighing information; and (e) making a decision.

(5) “Deliberate” means to engage in deliberations.

(6) “Discussion” means the consideration or debate of a matter.

(7) “Intermediary” means a person who is used to facilitate communications among members of a governing body about a matter subject to deliberation or decision by the governing body, by sharing information received from a member or members of the governing body with other members of the governing body. The term “intermediary” can include a member of the governing body.

(8) “Public Meetings Law” means ORS 192.610 to 192.705.

(9) “Quorum” means the minimum number of members of a governing body required to legally transact business. In the absence of a statute, ordinance, rule, charter, or other enactment specifically establishing the number of members constituting a quorum, a quorum is a majority of the voting members of the governing body.

(10) “Serial electronic written communications” means a series of successive or sequential communications among members of a governing body using written electronic means, including emails, texts, social media, and other electronic applications that communicate the written word.

Statutory/Other Authority: ORS 244.290

Statutes/Other Implemented: ORS 192.610, ORS 192.620, ORS 192.630, ORS 192.640, ORS 192.650, ORS 192.660, ORS 192.670, ORS 192.672, ORS 192.680, ORS 192.685, ORS 192.690, ORS 192.695, ORS 192.700 & ORS 192.705

History:

[GEC 1-2024, adopt filed 09/24/2024, effective 10/01/2024](#)

199-050-0010

Governing Bodies Subject to the Public Meetings Law

(1) The Public Meetings Law applies to the following types of governing bodies:

(a) Decision-Making Bodies. A decision-making body is a body with the authority to make decisions for the public body on policy or administration. A body meets this standard if its decision-making authority includes the power to exercise governmental power and act on behalf of the public body.

(b) Advisory Bodies. An advisory body is a body with authority to make recommendations to a public body on policy or administration.

(2) The Public Meetings Law does not apply to the following types of bodies:

(a) Fact Gathering Bodies. Bodies with only the authority to gather and provide purely factual information to a public body, and that do not have the authority to make decisions or recommendations.

(b) Bodies Advising Individual Public Officials. Bodies appointed by an individual public official with authority to make recommendations only to that individual public official who has the authority to act on the body's recommendations and is not required to pass the recommendations on unchanged to a public body.

(c) Certain Multi-Jurisdiction Bodies. Multi-jurisdictional bodies whose Oregon members do not constitute a majority of the governing body's voting members.

Statutory/Other Authority: ORS 244.290

Statutes/Other Implemented: ORS 244.610 & ORS 192.685

History:

[GEC 1-2024, adopt filed 09/24/2024, effective 10/01/2024](#)

199-050-0015

Meetings Subject to the Public Meetings Law

(1) The purpose of this rule is to clarify what meetings of a governing body are subject to the Public Meetings Law.

(2) The Public Meetings Law applies to the following types of meetings:

(a) Regular meetings;

(b) Special meetings;

(c) Emergency meetings;

(d) Executive sessions, whether convened separately or as part of a regular, special, or emergency meeting; and

(e) Meetings held for the purpose of either presenting information to the governing body to prepare the governing body for a regular or special meeting, or to allow the governing body to engage in preliminary discussions or deliberations. (These meetings are often called “work sessions” or “workshop” meetings).

(3) The Public Meetings Law does not apply to:

(a) On-site inspections of projects or programs, provided the members of the governing body do not engage in deliberations or decisions on matters that could reasonably be foreseen to come before the governing body.

(b) The attendance of members of a governing body at any national, regional or state association to which the public body or the members belong, provided the members of the governing body do not engage in deliberations or decisions on matters that could reasonably be foreseen to come before the governing body.

(c) Communications between or among members of a governing body, including communications of a quorum of members, that are:

(A) Purely factual or educational in nature and that convey no deliberation or decision on any matter that might reasonably come before the governing body;

(B) Not related to any matter that, at any time, could reasonably be foreseen to come before the governing body for deliberation and decision; or

(C) Nonsubstantive in nature, such as communication relating to scheduling, leaves of absence and other similar matters.

(d) Any matters listed in ORS 192.690.

(4) A private meeting where a quorum of a governing body engages in discussions or communications that are part of the governing body’s decision-making process on matters within the authority of the governing body violates the Public Meetings Law.

Statutory/Other Authority: ORS 244.290

Statutes/Other Implemented: ORS 192.630, ORS 192.690, ORS 192.610 & ORS 192.685

History:

[GEC 1-2024, adopt filed 09/24/2024, effective 10/01/2024](#)

199-050-0020

Serial Communications Prohibited

(1) A quorum of the members of a governing body shall not, outside of a meeting 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 or deciding on any matter that is within the jurisdiction of the governing body.

(2) The prohibitions in section (1) apply to using any one or a combination of the following methods of communication:

(a) In-person;

- (b) Telephone calls;
- (c) Videos, videoconferencing, or electronic video applications;
- (d) Written communications, including electronic written communications, such as email, texts, and other electronic applications;
- (e) Use of one or more intermediaries to convey information among members; and
- (f) Any other means of conveying information.

Statutory/Other Authority: ORS 244.290

Statutes/Other Implemented: ORS 192.610, ORS 192.630, ORS 192.685 & ORS 192.690

History:

[GEC 1-2024, adopt filed 09/24/2024, effective 10/01/2024](#)

199-050-0040

Notice Requirements

(1) Public notice, reasonably calculated to give actual notice, is required for all meetings of a governing body. The purpose of providing public notice is to give notice of the meeting details and subjects to members of the public at large, as well as to interested persons and media representatives who have requested notice.

(2) Methods of Notice:

(a) Notice to the Public. A governing body satisfies the public notice requirement in subsection (1) by providing notice of its meetings to be displayed conspicuously on the public body's or governing body's website or on a publicly accessible website hosted by a third-party and linked to the public body's or governing body's website. If the governing body does not maintain a publicly accessible website, the governing body shall satisfy the public notice requirements through other means such as posting on the Oregon Transparency Website, community postings, bulletin boards, newspaper notice, or any other means reasonably calculated to provide actual notice to the general public.

(b) Notice to Interested Persons. A governing body satisfies the interested persons notice requirement in subsection (1) by providing notice through:

(A) Interested person lists, mailing lists, or other lists of persons or groups maintained by the governing body to provide notice or communications;

(B) Social media platforms normally utilized by the governing body for communications; or

(C) Any other means reasonably calculated to provide actual notice to interested persons known to the governing body.

(c) Media Notice. A governing body satisfies the media notice requirement in subsection (1) by providing notice to those media representatives who have requested notice, either in the method requested by the media representatives or by any other means reasonably calculated to provide actual notice to the media representatives.

(d) State agencies shall also post meeting notices to the Oregon Transparency Website. Other public bodies may post notices to the Oregon Transparency Website.

(3) Content of Notice. The public notice shall identify:

(a) The time, date, location of the meeting, and, to the extent reasonably possible, the electronic link or telephone access information to allow members of the public to attend the meeting by telephone or electronic means.

(b) The agenda or list of the principal subjects anticipated to be considered at the meeting. The agenda or list of principal subjects shall be specific enough to permit members of the public to recognize the matters in which they are interested. The governing body may amend the agenda or may add or remove items from the list of principal subjects prior to or during a meeting.

(c) The name, telephone number, and email address of a person at the public body to contact to request an interpreter or other communication aids. As an alternative, the notice may indicate that the governing body will provide a sign language interpreter or other communication aids at the meeting.

(d) Executive Session Notice.

(A) If a meeting is being held only to conduct an executive session, the notice shall comply with sections (3)(a) through (c) and the notice shall also identify the specific statutory citation and appropriate subsection and paragraph authorizing the executive session, as well as a general description of the statutory authorization.

(B) If an executive session is to be part of a regular, special, or emergency meeting, the notice shall comply with subparagraph (A) of this paragraph, prior to entering the executive session, the presiding officer shall identify in open session the specific statutory provision and appropriate subsection and paragraph authorizing the executive session, as well as a general description of the statutory authorization. The public announcement required in this section shall be made during the portion of the meeting that is open to the public and before entering into executive session.

(4) Timing of Notice. The public notice shall be issued in advance of the meeting in accordance with the following timelines:

(a) Regular Meeting: as much advance notice as reasonably possible, but no less than 48 hours advance notice. Providing notice of less than 48 hours is allowed if the meeting is held as a special meeting.

(b) Special Meeting: at least 24 hours advance notice.

(c) Emergency Meeting: as much advance notice as reasonably possible given the emergency circumstances. An "actual emergency" must exist.

(A) The governing body shall describe in the minutes the actual emergency and the reason why the meeting could not be delayed to allow at least 24 hours' notice.

(B) The governing body shall attempt to contact the media and other interested persons to inform them of the emergency meeting by telephone, e-mail, social media, or other method reasonably calculated to provide actual notice.

(C) If reasonably possible under the emergency circumstances, the emergency meeting notice shall be conspicuously displayed on the governing body's or public body's website or on a publicly accessible website hosted by a third-party hosted and linked to the public body's or governing body's website. If the public body or governing body does not maintain a publicly accessible website, the emergency meeting notice shall be conspicuously displayed on a notice board or in such other manner as the governing body determines may provide actual notice of the emergency meeting to the public.

Statutory/Other Authority: ORS 244.940

Statutes/Other Implemented: ORS 192.685, ORS 192.630 & ORS 192.640

History:

[GEC 1-2024, adopt filed 09/24/2024, effective 10/01/2024](#)

199-050-0050

Public Attendance; Meeting Locations

- (1) All meetings of a governing body, other than executive sessions, shall be open to the public.
 - (a) Meetings may be held at locations as specified in ORS 192.630(4);
 - (b) Meeting locations shall be accessible to persons with disabilities as specified in ORS 192.630(5); and
 - (c) Meetings may not be held at discriminatory locations as provided in ORS 192.630(3).
- (2) For meetings held by telephone or other electronic means of communication, the governing body shall make available a place or an electronic means by which the public can listen to or view the meetings in real time. The place provided may be a place where no member of the governing body of the public body is present.
- (3) The governing body shall, to the extent reasonably possible, provide members of the general public an opportunity to access and attend meetings, excluding executive sessions, by telephone, video or other electronic or virtual means.
- (4) For executive sessions where the media are statutorily authorized to be present, if any person, including any member of the governing body, is attending the executive session by telephone, video, or other electronic means, the governing body shall provide members of the media the same attendance option. Nothing in this subsection prevents the governing body from establishing reasonable security measures to ensure the media's attendance by telephone, video, or other electronic means is conducted through a secure connection or method.
- (5) When public testimony is permitted, the governing body shall:
 - (a) Allow oral testimony by telephone, video, or other electronic or virtual means if in-person oral testimony is allowed; and
 - (b) Allow written testimony, including that submitted by electronic mail or other electronic means, if in-person written testimony is permitted. The governing body may require the written testimony be submitted sufficiently in advance of the meeting so that the governing body is able to consider the submitted testimony in a timely manner.
- (6) The Public Meetings Law does not provide the public the right to participate or to provide public testimony or public comment. In the absence of a statutory or other legal requirement to hear public

testimony or comment on certain matters, a governing body may conduct a meeting without any public participation.

(7) Unless otherwise provided by statute, charter, or other organic law of the governing body or public body, the presiding officer has inherent authority to keep order and to impose any reasonable restrictions necessary for the efficient and orderly conduct of a meeting. If public participation is to be a part of the meeting, the presiding officer may regulate the order and length of appearances and limit appearances to presentations of relevant points.

Statutory/Other Authority: ORS 244.290

Statutes/Other Implemented: ORS 192.620, ORS 192.660, ORS 192.630, ORS 192.670, ORS 192.672 & ORS 192.685

History:

[GEC 1-2024, adopt filed 09/24/2024, effective 10/01/2024](#)

199-050-0055

Public Vote Requirements

(1) All official actions of a governing bodies shall be taken by public vote.

(2) Results of all votes shall be recorded, including the vote of each individual governing body member by name. For public bodies with more than 25 members, the individual votes do not need to be recorded unless one member makes such a request.

(3) Secret ballots are prohibited.

(4) If written ballots are used, the written ballot shall identify the individual governing body member by name and each governing body member's vote shall be announced during the meeting at which the vote occurred.

Statutory/Other Authority: ORS 244.290

Statutes/Other Implemented: ORS 192.610, ORS 192.650, ORS 192.660 & ORS 192.685

History:

[GEC 1-2024, adopt filed 09/24/2024, effective 10/01/2024](#)

199-050-0060

Minutes or Recordings Required

(1) For all of its meetings, including executive sessions, a governing body shall provide for either written minutes or audio, video, or digital recordings.

(2) The minutes do not need to be a verbatim transcript and the recordings do not need to include a full recording of the meeting, except as otherwise provided by law, but they shall give "a true reflection of the matters discussed at the meeting and the views of the participants" and shall include all of the information identified in ORS 192.650(1).

(3) After the meeting, draft minutes or recordings of all meetings, other than executive sessions, shall be made available to the public in accordance with the requirements of the Public Records Law and the policies or procedures adopted by the Public Body.

Statutory/Other Authority: ORS 244.290

Statutes/Other Implemented: ORS 192.620, ORS 192.650, ORS 192.672 & ORS 192.685

History:

[GEC 1-2024, adopt filed 09/24/2024, effective 10/01/2024](#)

199-050-0065

State Board or Commission Meetings Held Through Telephone or Electronic Means; Video and Audio Recordings

(1) A state board or commission that meets through telephone or other electronic means shall record and promptly publish a recording of the meeting on a publicly accessible website or hosting service so that members of the public may, without charge:

(a) Observe a recording of the meeting if it was conducted through videoconference technology; or

(b) Listen to a recording of the meeting if it was conducted through teleconference technology that did not include video capabilities.

(2) The requirements of subsection (1) do not apply to any portion of a meeting that was lawfully held in executive session.

(3) The requirements of subsection (1) apply to any state board or commission within the executive department and whose members are subject to Senate confirmation.

(4) The recording of the meeting shall remain accessible on the website or hosting service for no fewer than 30 days after the meeting.

Statutory/Other Authority: ORS 244.290

Statutes/Other Implemented: ORS 192.610, ORS 192.650, ORS 192.670, ORS 192.672 & ORS 192.685

History:

[GEC 1-2024, adopt filed 09/24/2024, effective 10/01/2024](#)

199-050-0070

Grievance Process

(1) The purpose of this rule is to clarify procedures regarding the requirements in ORS 192.705 for filing a written grievance with a public body alleging a violation by a governing body of provisions in Public Meetings Law.

(2) The written grievance shall be submitted to the public body within 30 calendar days from the date of the meeting where the alleged violation occurred. The written grievance shall identify:

(a) The governing body that allegedly violated the Public Meetings Law;

(b) The date of the meeting where the alleged violation occurred;

(c) The specific facts and circumstances that the person asserts amount to a violation of the Public Meetings Law;

(d) The date of the grievance; and

(e) The name and contact information of the person submitting the grievance.

(3) The public body shall accept grievances that are filed through in-person delivery during regular business hours, by first-class mail, and by email. In addition, the public body may accept grievances by any other means it deems appropriate. A public body shall post on its website the person and contact information to whom a grievance may be submitted and the regular business hours during which in-person grievances will be accepted. In the absence of a designated person, a grievance may be submitted to the public body's chief administrative officer or to the chair of the governing body. If the public body does not maintain a publicly accessible website, the public body shall provide notice of the person and contact information to whom a grievance may be submitted and the regular business hours during which in-person grievances will be accepted in the same manner that it provides notice of its public meetings.

(4) The public body's written response to the grievance shall be submitted to the person who made the grievance within 21 calendar days from the date the grievance was received by the public body and shall satisfy the other requirements in ORS 192.705(2).

(5) As required by ORS 192.705(3), at the same time the public body responds to a grievance, it shall submit a copy of the grievance and its response to the Commission. The submission of the grievance and response to the Commission can be made by mail or by e-mail at the e-mail address identified on the Commission's website.

Statutory/Other Authority: ORS 244.290

Statutes/Other Implemented: ORS 192.705 & ORS 192.685

History:

[GEC 1-2024, adopt filed 09/24/2024, effective 10/01/2024](#)

199-050-0075

Complaints; Dismissal for Failure To Satisfy ORS 192.685

(1) The purpose of this rule is to clarify procedures regarding the opening of one or more preliminary reviews based on a complaint of violations of the Public Meetings Law made against one or more members of a governing body.

(2) A complaint alleging violations of Public Meetings Law that is filed with the Commission under ORS 192.685 will be construed as a complaint against all members of the governing body and cases will be opened for each member of the governing body.

(3) When a complaint involves the members of a governing body, the Commission hearing of the governing body members' cases will be consolidated at the preliminary review phase and investigative phase, unless one or more members of the governing body object to the consolidation. At the conclusion of the preliminary review phase or investigative phase, the Commission will make individual determinations regarding the cases of each member of the governing body.

(4) A complaint that is dismissed for failing to comply with the grievance requirements in ORS 192.685 is a procedural dismissal only. The dismissal does not prevent the Commission from taking up the matter on the Commission's own motion. The dismissal does not prohibit the Commission from considering a new complaint based upon the same conduct alleged in the dismissed complaint, if the new complaint is based on a grievance that was timely submitted to the public body and that complied with these rules.

Statutory/Other Authority: ORS 244.290

Statutes/Other Implemented: ORS 192.685, ORS 192.705 & ORS 244.260

History:

GEC 1-2024, adopt filed 09/24/2024, effective 10/01/2024

199-050-0080

Training Requirements

(1) All members of governing bodies are encouraged to comply with the minimum training requirements in Section (2)(a) through (c) of this rule.

(2) If a governing body has total expenditures of \$1 million or more in a fiscal year, as adjusted for inflation in the manner required by ORS 192.700(3), each member of the governing body shall:

(a) At least once during each term of office, attend or view a training on Oregon's Public Meetings Law provided by the Commission or approved by the Commission in the manner described in OAR 199-005-0085;

(b) Maintain a record of the training viewed or attended, including the date viewed or attended and the name of the provider of the training; and

(c) Truthfully certify completion of the training upon request of the Commission.

(3) A person who serves on multiple governing bodies, each of which require the mandatory training, may attend a single training to satisfy the requirements in section (2) of this rule so long as that training occurs during each applicable term of office.

(4) Exceptions. The training requirements in section (2) of this rule do not apply to:

(a) Members of a governing body if the governing body has total expenditures of less than \$1 million in a fiscal year, as adjusted for inflation; or

(b) Members of governing bodies of state government as defined by ORS 174.111.

Statutory/Other Authority: ORS 244.290

Statutes/Other Implemented: ORS 192.685 & ORS 192.700

History:

GEC 1-2024, adopt filed 09/24/2024, effective 10/01/2024

OREGON PUBLIC DEFENSE COMMISSION

151.211 Definitions for ORS 151.211 to 151.221. For purposes of ORS 151.211 to 151.221:

- (1) “Chief Justice” means the Chief Justice of the Supreme Court.
- (2) “Commission” means the Oregon Public Defense Commission. [2001 c.962 §1; 2007 c.71 §43; 2023 c.281 §1]

Note: The amendments to 151.211 by section 93, chapter 281, Oregon Laws 2023, become operative July 1, 2025. See section 102, chapter 281, Oregon Laws 2023. The text that is operative on and after July 1, 2025, is set forth for the user’s convenience.

151.211. For purposes of ORS 151.211 to 151.221:

- (1) “Appointed counsel” includes trial-level and appellate attorneys who are employees of the Oregon Public Defense Commission, attorneys employed by a nonprofit public defense organization and attorneys on the panel of qualified counsel described in ORS 151.216 (5) who contract with the commission to provide public defense services.
- (2) “Chief Justice” means the Chief Justice of the Supreme Court.
- (3) “Commission” means the Oregon Public Defense Commission.
- (4) “Nonprofit public defense organization” means a nonprofit organization that employs attorneys who provide public defense services.

Note: 151.211 to 151.225 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 151 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

151.213 Oregon Public Defense Commission; membership; terms; member duties. (1)

The Oregon Public Defense Commission is established in the judicial branch of state government. Except for the appointment or removal of commission members, the commission and employees of the commission are not subject to the exercise of administrative authority and supervision by the Chief Justice of the Supreme Court as the administrative head of the Judicial Department.

(2)(a) Nine voting members and four nonvoting members shall be appointed to the commission by order of the Chief Justice as follows:

(A) The Chief Justice shall appoint:

(i) One voting member who is a retired judge.

(ii) Two additional voting members, one of whom has experience as a public defense provider in criminal cases.

(B) The Chief Justice shall appoint, from among persons recommended by the Governor:

(i) One voting member who has been represented by a public defense provider.

(ii) Two additional voting members, one of whom has experience as a public defense provider in juvenile delinquency or dependency cases.

(iii) Two nonvoting members who are currently employed as public defense providers in this state, one of whom is from an urban area and one of whom is from a rural area.

(C) The Chief Justice shall appoint, from among persons recommended by the President of the Senate:

(i) One voting member who is a current dean or faculty member of an Oregon law school.

(ii) One nonvoting member who is a member of the Senate at the time of appointment.

(D) The Chief Justice shall appoint, from among persons recommended by the Speaker of the House of Representatives:

(i) One voting member who has expertise in juvenile law and criminal defense, or who is a juvenile justice or criminal justice reform advocate.

(ii) One nonvoting member who is a member of the House of Representatives at the time of appointment.

(E) The Chief Justice shall appoint one voting member from among persons jointly recommended by the President of the Senate and the Speaker of the House of Representatives.

(b) When recommending and appointing members of the commission, the Chief Justice, Governor, President of the Senate and Speaker of the House of Representatives shall:

(A) Consider input from individuals and organizations with an interest in the delivery of public defense services.

(B) Consider geographic, racial, ethnic and gender diversity.

(C) Ensure that members appointed to the commission have significant experience with issues related to public defense or in the case types subject to representation by public defense providers.

(D) Ensure that members appointed to the commission have demonstrated a strong commitment to quality public defense representation.

(c) The following persons may not be appointed to and may not serve as members of the commission:

(A) A prosecuting attorney.

(B) A judge, magistrate or other person who performs judicial functions.

(C) An employee of a law enforcement agency or the Department of Human Services.

(d) A person who is primarily engaged in providing public defense services and who has a financial interest in the delivery of public defense services at the state level may not serve as a voting member of the commission.

(e) As used in this subsection, “law enforcement agency” means an entity that employs corrections officers, parole and probation officers, police officers, certified reserve officers or reserve officers, as those terms are defined in ORS 181A.355.

(3) The term of a member is four years beginning on the effective date of the order of the Chief Justice appointing the member. A member is eligible for reappointment if qualified for membership at the time of reappointment, but may serve no more than two consecutive four-year terms. The Chief Justice may remove any member of the commission at any time for cause. If a vacancy occurs for any cause before the expiration of the term of a member, the Chief Justice shall make an appointment to fill the vacancy, in the same manner as an appointment to a full term, to become immediately effective for the unexpired term. If the Chief Justice has not filled a vacancy within 45 days after the vacancy occurs, the remaining voting members of the commission shall, by a majority vote, select a member to fill the vacancy for the remainder of the term. The selected member must meet the requirements for membership described in this section.

(4) A chairperson and a vice chairperson shall be elected by the voting members of the commission every two years with such functions as the commission may determine. A member is eligible for reelection as chairperson or vice chairperson.

(5) A majority of the voting members constitutes a quorum for the transaction of business.

(6)(a) All members of the commission shall:

(A) Review the policies, procedures, standards and guidelines required by ORS 151.216 and provide input before the approval vote described in paragraph (b) of this subsection.

(B) Review the budget of the commission and provide input before the approval vote described in paragraph (b) of this subsection.

(C) Meet as needed to carry out the duties described in this subsection.

(b) The voting members of the commission shall:

(A) Appoint, by a two-thirds vote, an executive director for a term of office of four years.

The term may be terminated for cause by a majority vote of the voting members after notice and a hearing. When the term of an executive director ends without termination, the voting members of the commission may reappoint the person currently in the position by a majority vote.

(B) Upon the vacancy of the executive director position, immediately designate an acting executive director by a majority vote.

(C) Approve by majority vote the policies, procedures, standards and guidelines required by ORS 151.216 before those policies, procedures, standards and guidelines may take effect.

(D) Approve by majority vote the budget of the commission before submission to the Legislative Assembly.

(7) The members of the commission may not:

(a) Make any decision regarding the handling of any individual case;

(b) Have access to any case file; or

(c) Interfere with the executive director or any member of the staff of the executive director in carrying out professional duties involving the legal representation of public defense clients.

(8) A member of the commission is entitled to compensation for services as a member, and to expenses, as provided in ORS 292.495. [2001 c.962 §2; 2003 c.449 §15; 2021 c.202 §1; 2023 c.281 §2]

Note 1: The amendments to 151.213 by section 77, chapter 281, Oregon Laws 2023, become operative January 1, 2025. See section 92, chapter 281, Oregon Laws 2023. The text that is operative from January 1, 2025, until July 1, 2027, is set forth for the user's convenience.

151.213. (1) The Oregon Public Defense Commission is established in the executive branch of state government. Except for the appointment or removal of commission members, the commission and employees of the commission are not subject to the exercise of administrative authority and supervision by the Governor.

(2)(a) Nine voting members and four nonvoting members shall be appointed to the commission by the Governor as follows:

(A) The Governor shall appoint:

(i) One voting member who has been represented by a public defense provider.

(ii) Two additional voting members, one of whom has experience as a public defense provider in juvenile delinquency or dependency cases.

(iii) Two nonvoting members who are currently employed as public defense providers in this state, one of whom is from an urban area and one of whom is from a rural area.

(B) The Governor shall appoint, from among persons recommended by the Chief Justice of the Supreme Court:

(i) One voting member who is a retired judge.

(ii) Two additional voting members, one of whom has experience as a public defense provider in criminal cases.

(C) The Governor shall appoint, from among persons recommended by the President of the Senate:

(i) One voting member who is a current dean or faculty member of an Oregon law school.

(ii) One nonvoting member who is a member of the Senate at the time of appointment.

(D) The Governor shall appoint, from among persons recommended by the Speaker of the House of Representatives:

(i) One voting member who has expertise in juvenile law and criminal defense, or who is a juvenile justice or criminal justice reform advocate.

(ii) One nonvoting member who is a member of the House of Representatives at the time of appointment.

(E) The Governor shall appoint one voting member from among persons jointly recommended by the President of the Senate and the Speaker of the House of Representatives.

(b) When recommending and appointing members of the commission, the Governor, Chief Justice, President of the Senate and Speaker of the House of Representatives shall:

(A) Consider input from individuals and organizations with an interest in the delivery of public defense services.

(B) Consider geographic, racial, ethnic and gender diversity.

(C) Ensure that members appointed to the commission have significant experience with issues related to public defense or in the case types subject to representation by public defense providers.

(D) Ensure that members appointed to the commission have demonstrated a strong commitment to quality public defense representation.

(c) The following persons may not be appointed to and may not serve as members of the commission:

(A) A prosecuting attorney.

(B) A judge, magistrate or other person who performs judicial functions.

(C) An employee of a law enforcement agency or the Department of Human Services.

(d) A person who is primarily engaged in providing public defense services and who has a financial interest in the delivery of public defense services at the state level may not serve as a voting member of the commission.

(e) As used in this subsection, “law enforcement agency” means an entity that employs corrections officers, parole and probation officers, police officers, certified reserve officers or reserve officers, as those terms are defined in ORS 181A.355.

(3) The term of a member is four years beginning on the effective date of the Governor’s appointment, but members serve at the pleasure of the Governor. A member is eligible for reappointment if qualified for membership at the time of reappointment, but may serve no more than two consecutive four-year terms. The Governor may remove any member of the commission at any time. If a vacancy occurs for any cause before the expiration of the term of a member, the Governor shall make an appointment to fill the vacancy, in the same manner as an appointment to a full term, to become immediately effective for the unexpired term.

(4) A chairperson and a vice chairperson shall be elected by the voting members of the commission every two years with such functions as the commission may determine. A member is eligible for reelection as chairperson or vice chairperson.

(5) A majority of the voting members constitutes a quorum for the transaction of business.

(6)(a) All members of the commission shall:

(A) Review the policies, procedures, standards and guidelines required by ORS 151.216 and provide input before the approval vote described in paragraph (b) of this subsection.

(B) Review the budget of the commission and provide input before the approval vote described in paragraph (b) of this subsection.

(C) Meet as needed to carry out the duties described in this subsection.

(b) The voting members of the commission shall:

(A) Approve by majority vote the policies, procedures, standards and guidelines required by ORS 151.216 before those policies, procedures, standards and guidelines may take effect.

(B) Approve by majority vote the budget of the commission before submission to the Legislative Assembly.

(7) The members of the commission may not:

(a) Make any decision regarding the handling of any individual case;

(b) Have access to any case file; or

(c) Interfere with the executive director or any member of the staff of the executive director in carrying out professional duties involving the legal representation of public defense clients.

(8) A member of the commission is entitled to compensation for services as a member, and to expenses, as provided in ORS 292.495.

(9)(a) The Governor shall appoint an executive director of the commission, subject to confirmation by the Senate in the manner prescribed by ORS 171.562 and 171.565. The person appointed as executive director must be well qualified by training and experience to perform the functions of the office.

(b) The term of office of the executive director is four years, but the executive director serves at the pleasure of the Governor.

(c) Before the expiration of the executive director's term, the Governor shall appoint a successor to take office upon the date of the expiration. The executive director is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

Note 2: The amendments to 151.213 by section 100, chapter 281, Oregon Laws 2023, become operative July 1, 2027. See section 102, chapter 281, Oregon Laws 2023. The text that is operative on and after July 1, 2027, is set forth for the user's convenience.

151.213. (1) The Oregon Public Defense Commission is established in the executive branch of state government. Except for the appointment or removal of commission members, the commission and employees of the commission are not subject to the exercise of administrative authority and supervision by the Governor.

(2)(a) Nine voting members and four nonvoting members shall be appointed to the commission by the Governor as follows:

(A) The Governor shall appoint:

(i) One voting member who has been represented by a public defense provider.

(ii) Two additional voting members, one of whom has experience as a public defense provider in juvenile delinquency or dependency cases.

(iii) Two nonvoting members who are currently employed as public defense providers in this state, one of whom is from an urban area and one of whom is from a rural area.

(B) The Governor shall appoint, from among persons recommended by the Chief Justice of the Supreme Court:

(i) One voting member who is a retired judge.

(ii) Two additional voting members, one of whom has experience as a public defense provider in criminal cases.

(C) The Governor shall appoint, from among persons recommended by the President of the Senate:

(i) One voting member who is a current dean or faculty member of an Oregon law school.

(ii) One nonvoting member who is a member of the Senate at the time of appointment.

(D) The Governor shall appoint, from among persons recommended by the Speaker of the House of Representatives:

(i) One voting member who has expertise in juvenile law and criminal defense, or who is a juvenile justice or criminal justice reform advocate.

(ii) One nonvoting member who is a member of the House of Representatives at the time of appointment.

(E) The Governor shall appoint one voting member from among persons jointly recommended by the President of the Senate and the Speaker of the House of Representatives.

(b) When recommending and appointing members of the commission, the Governor, Chief Justice, President of the Senate and Speaker of the House of Representatives shall:

(A) Consider input from individuals and organizations with an interest in the delivery of public defense services.

(B) Consider geographic, racial, ethnic and gender diversity.

(C) Ensure that members appointed to the commission have significant experience with issues related to public defense or in the case types subject to representation by public defense providers.

(D) Ensure that members appointed to the commission have demonstrated a strong commitment to quality public defense representation.

(c) The following persons may not be appointed to and may not serve as members of the commission:

(A) A prosecuting attorney.

(B) A judge, magistrate or other person who performs judicial functions.

(C) An employee of a law enforcement agency or the Department of Human Services.

(d) A person who is primarily engaged in providing public defense services and who has a financial interest in the delivery of public defense services at the state level may not serve as a voting member of the commission.

(e) As used in this subsection, "law enforcement agency" means an entity that employs corrections officers, parole and probation officers, police officers, certified reserve officers or reserve officers, as those terms are defined in ORS 181A.355.

(3) The term of a member is four years beginning on the effective date of the Governor's appointment. A member is eligible for reappointment if qualified for membership at the time of reappointment, but may serve no more than two consecutive four-year terms. The Governor may remove any member of the commission at any time for inefficiency, neglect of duty or malfeasance in office. If a vacancy occurs for any cause before the expiration of the term of a member, the Governor shall make an appointment to fill the vacancy, in the same manner as an appointment to a full term, to become immediately effective for the unexpired term.

(4) A chairperson and a vice chairperson shall be elected by the voting members of the commission every two years with such functions as the commission may determine. A member is eligible for reelection as chairperson or vice chairperson.

(5) A majority of the voting members constitutes a quorum for the transaction of business.

(6)(a) All members of the commission shall:

(A) Review the policies, procedures, standards and guidelines required by ORS 151.216 and provide input before the approval vote described in paragraph (b) of this subsection.

(B) Review the budget of the commission and provide input before the approval vote described in paragraph (b) of this subsection.

(C) Meet as needed to carry out the duties described in this subsection.

(b) The voting members of the commission shall:

(A) Appoint an executive director of the commission. The term of office of the executive director is four years, but the executive director serves at the pleasure of the voting members of the commission.

(B) Approve by majority vote the policies, procedures, standards and guidelines required by ORS 151.216 before those policies, procedures, standards and guidelines may take effect.

(C) Approve by majority vote the budget of the commission before submission to the Legislative Assembly.

(7) The members of the commission may not:

(a) Make any decision regarding the handling of any individual case;

(b) Have access to any case file; or

(c) Interfere with the executive director or any member of the staff of the executive director in carrying out professional duties involving the legal representation of public defense clients.

(8) A member of the commission is entitled to compensation for services as a member, and to expenses, as provided in ORS 292.495.

Note 3: See second note under 151.211.

Note 4: Section 14 (4), chapter 281, Oregon Laws 2023, provides:

Sec. 14. (4) Notwithstanding ORS 151.213 (3), and subject to the provisions of sections 92 (3) and 102 (2) of this 2023 Act, the initial terms of persons appointed as voting members to the Oregon Public Defense Commission under this section shall be staggered as follows:

(a) The initial term of one of the voting members described in ORS 151.213 (2)(a)(A), one of the voting members described in ORS 151.213 (2)(a)(B) and the voting member described in ORS 151.213 (2)(a)(E) shall be four years.

(b) The initial term of one of the voting members described in ORS 151.213 (2)(a)(A) and the voting member described in ORS 151.213 (2)(a)(C) shall be three years.

(c) The initial term of one of the voting members described in ORS 151.213 (2)(a)(B) and the voting member described in ORS 151.213 (2)(a)(D) shall be two years.

(d) The initial term of one of the voting members described in ORS 151.213 (2)(a)(A) and one of the voting members described in ORS 151.213 (2)(a)(B) shall be one year. [2023 c.281 §14(4)]

Note 5: Section 92 (1)(a), chapter 281, Oregon Laws 2023, provides:

Sec. 92. (1)(a) The Oregon Public Defense Commission is transferred from the judicial branch to the executive branch on January 1, 2025. [2023 c.281 §92(1)(a)]

Note 6: Section 92 (3)(a), chapter 281, Oregon Laws 2023, provides:

Sec. 92. (3)(a) A person who is a member of the Oregon Public Defense Commission on January 1, 2025, may finish the person's term as a commission member and is eligible for reappointment if the person meets the requirements described in ORS 151.213 (2), but, beginning on January 1, 2025, and continuing until July 1, 2027, serves at the pleasure of the Governor. [2023 c.281 §92(3)(a)]

Note 7: Section 102 (2)(a), chapter 281, Oregon Laws 2023, provides:

Sec. 102. (2)(a) A person who is a member of the Oregon Public Defense Commission on July 1, 2027, may finish the person's term as a commission member and is eligible for reappointment, but, beginning July 1, 2027, may be removed by the Governor only for inefficiency, neglect of duty or malfeasance in office. [2023 c.281 §102(2)(a)]

151.216 Commission duties. (1) The Oregon Public Defense Commission shall:

(a) Establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.

(b) Adopt policies for public defense providers that:

(A) Ensure compensation, resources and caseloads are in accordance with national and regional best practices;

(B) Ensure all public defense provider contracts provide for compensation that is commensurate with the character of service performed;

(C) Ensure funding and resources to support required data collection and training requirements; and

(D) Recognize the need to consider overhead costs that account for the cost of living and business cost differences in each county or jurisdiction, including but not limited to rent, professional membership dues, malpractice insurance and other insurance and other reasonable and usual operating costs.

(c) Establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion and culturally specific representation.

(d) Review the caseload policies described in paragraph (b)(A) of this subsection annually, and revise the policies as necessary and at least every four years.

(e) Adopt a statewide workload plan, based on the caseload policies described in paragraph (b)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice structure and type of practice overseen by the commission.

(f) Submit the budget of the commission to the Legislative Assembly after the budget is submitted to the commission by the executive director and approved by the voting members of the commission. The Chief Justice of the Supreme Court and the chairperson of the commission shall present the budget to the Legislative Assembly.

(g) Adopt a compensation plan, classification system and affirmative action plan for the commission that are commensurate with other state agencies.

(h) Adopt policies, procedures, standards and guidelines regarding:

(A) The determination of financial eligibility of persons entitled to be represented by appointed counsel at state expense;

(B) The appointment of counsel, including the appointment of counsel at state expense regardless of financial eligibility in juvenile delinquency matters;

(C) The fair compensation of counsel appointed to represent a person financially eligible for appointed counsel at state expense;

(D) Appointed counsel compensation disputes;

(E) The costs associated with the representation of a person by appointed counsel in the state courts that are required to be paid by the state; and

(F) The types of fees and expenses subject to a preauthorization requirement.

(i) Reimburse the State Court Administrator from funds deposited in the Public Defense Services Account established by ORS 151.225 for the costs of personnel and other costs associated with location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State Court Administrator.

(j) Develop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions. The policies, procedures, standards and guidelines described in this paragraph apply to employees of the commission and to any person or entity that contracts with the commission to provide public defense services in this state.

(k) Set minimum standards by which appointed counsel are trained and supervised.

(L) Establish a system, policies and procedures for the mandatory collection of data concerning the operation of the commission and all public defense providers.

(m) Enter into contracts and hire attorneys to bring the delivery of public defense services into and maintain compliance with the minimum policies, procedures, standards and guidelines described in this subsection. All contracts for the provision of public defense services to which the commission is a party must include a requirement for collection by the commission of data determined by the commission to be qualitatively necessary for any report required to be submitted to the Legislative Assembly.

(n) At least once every two years, report to the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in ORS 192.245, and to the Governor and Chief Justice, concerning compliance metrics for the minimum standards described in this subsection and recommendations for legislative changes.

(o) Develop standard operating expectations for persons and entities providing public defense services.

(p) In consultation with the Judicial Department, ensure the existence of policies that create a standardized process for determining and verifying financial eligibility for appointed counsel under ORS 151.485.

(q) Ensure access to systematic and comprehensive training programs for attorneys for the purpose of meeting statewide standards set by the commission.

(r) Enter into contracts or interagency agreements with the Oregon Department of Administrative Services for the purpose of supporting state public defense population forecasts and other related forecasts.

(s) Pay invoices submitted to the commission within 45 days of receipt or in accordance with statewide accounting policies established by the Oregon Department of Administrative Services.

(t) Establish any other policies, procedures, standards and guidelines for the conduct of the commission's affairs and promulgate policies necessary to carry out all powers and duties of the commission.

(2) When establishing the minimum policies, procedures, standards and guidelines described in this section, the commission shall adhere to the following principles:

(a) Appointed counsel shall be provided sufficient time and a space where attorney-client confidentiality is safeguarded for meetings with clients.

(b) The workload of appointed counsel must be controlled to permit effective representation. Economic disincentives or incentives that impair the ability of appointed counsel to provide

effective assistance of counsel must be avoided. The commission may develop workload controls to enhance appointed counsel's ability to provide effective representation.

(c) The ability, training and experience of appointed counsel must match the nature and complexity of the case to which the counsel is appointed.

(d) The same appointed counsel shall continuously represent a client throughout the pendency of the case and shall appear at every court appearance other than ministerial hearings.

(e) The commission shall establish continuing legal education requirements for public defense providers who are employed by or contract with the commission that are specific to the subject matter area and practice of each type of court-appointed counsel.

(f) The commission and public defense providers shall systematically review appointed counsel for efficiency and for effective representation according to commission standards.

(3) The commission shall be organized in a manner for the effective delivery of public defense services as prescribed by the policies and procedures created pursuant to statute to financially eligible persons and consistent with the budgetary structure established for the commission by the Legislative Assembly.

(4) The commission shall hire attorneys to serve as appointed counsel, including at the trial level in Oregon circuit courts, and may establish a trial division within the commission consisting of attorneys employed by the commission who are trial-level public defense providers.

(5) The policies, procedures, standards and guidelines adopted by the commission must be made available in an accessible manner to the public on the commission's website.

(6) Policies, procedures, standards and guidelines adopted by the commission supersede any conflicting rules, policies or procedures of the Public Defender Committee, State Court Administrator, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review Board related to the exercise of the commission's administrative responsibilities under this section and transferred duties, functions and powers as they occur.

(7) The commission may accept gifts, grants or contributions from any source, whether public or private. However, the commission may not accept a gift, grant or contribution if acceptance would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the Public Defense Services Account established by ORS 151.225 and expended for the purposes for which given or granted. [2001 c.962 §§3,106; 2003 c.449 §§1,2,42; 2005 c.843 §23; 2011 c.708 §20; 2012 c.107 §42; 2017 c.442 §19; 2021 c.202 §2; 2021 c.597 §9; 2023 c.281 §3]

Note 1: The amendments to 151.216 by section 78, chapter 281, Oregon Laws 2023, become operative January 1, 2025. See section 92, chapter 281, Oregon Laws 2023. The text that is operative from January 1, 2025, until July 1, 2025, is set forth for the user's convenience.

151.216. (1) The Oregon Public Defense Commission shall:

(a) Establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.

(b) Adopt policies for public defense providers that:

(A) Ensure compensation, resources and caseloads are in accordance with national and regional best practices;

(B) Ensure all public defense provider contracts provide for compensation that is commensurate with the character of service performed;

(C) Ensure funding and resources to support required data collection and training requirements; and

(D) Recognize the need to consider overhead costs that account for the cost of living and business cost differences in each county or jurisdiction, including but not limited to rent, professional membership dues, malpractice insurance and other insurance and other reasonable and usual operating costs.

(c) Establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion and culturally specific representation.

(d) Review the caseload policies described in paragraph (b)(A) of this subsection annually, and revise the policies as necessary and at least every four years.

(e) Adopt a statewide workload plan, based on the caseload policies described in paragraph (b)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice structure and type of practice overseen by the commission.

(f) Submit the budget of the commission to the Legislative Assembly after the budget is submitted to the commission by the executive director and approved by the voting members of the commission. The chairperson of the commission shall present the budget to the Legislative Assembly.

(g) Adopt a compensation plan, classification system and affirmative action plan for the commission that are commensurate with other state agencies.

(h) Adopt policies, procedures, standards and guidelines regarding:

(A) The determination of financial eligibility of persons entitled to be represented by appointed counsel at state expense;

(B) The appointment of counsel, including the appointment of counsel at state expense regardless of financial eligibility in juvenile delinquency matters;

(C) The fair compensation of counsel appointed to represent a person financially eligible for appointed counsel at state expense;

(D) Appointed counsel compensation disputes;

(E) The costs associated with the representation of a person by appointed counsel in the state courts that are required to be paid by the state; and

(F) The types of fees and expenses subject to a preauthorization requirement.

(i) Reimburse the State Court Administrator from funds deposited in the Public Defense Services Account established by ORS 151.225 for the costs of personnel and other costs associated with location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State Court Administrator.

(j) Develop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions. The policies, procedures, standards and guidelines described in this paragraph apply to employees of the commission and to any person or entity that contracts with the commission to provide public defense services in this state.

(k) Set minimum standards by which appointed counsel are trained and supervised.

(L) Establish a system, policies and procedures for the mandatory collection of data concerning the operation of the commission and all public defense providers.

(m) Enter into contracts and hire attorneys to bring the delivery of public defense services into and maintain compliance with the minimum policies, procedures, standards and guidelines described in this subsection. All contracts for the provision of public defense services to which the commission is a party must include a requirement for collection by the commission of data determined by the commission to be qualitatively necessary for any report required to be submitted to the Legislative Assembly.

(n) At least once every two years, report to the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in ORS 192.245, and to the Governor and Chief Justice, concerning compliance metrics for the minimum standards described in this subsection and recommendations for legislative changes.

(o) Develop standard operating expectations for persons and entities providing public defense services.

(p) In consultation with the Judicial Department, ensure the existence of policies that create a standardized process for determining and verifying financial eligibility for appointed counsel under ORS 151.485.

(q) Ensure access to systematic and comprehensive training programs for attorneys for the purpose of meeting statewide standards set by the commission.

(r) Enter into contracts or interagency agreements with the Oregon Department of Administrative Services for the purpose of supporting state public defense population forecasts and other related forecasts.

(s) Establish any other policies, procedures, standards and guidelines for the conduct of the commission's affairs and promulgate policies necessary to carry out all powers and duties of the commission.

(2) When establishing the minimum policies, procedures, standards and guidelines described in this section, the commission shall adhere to the following principles:

(a) Appointed counsel shall be provided sufficient time and a space where attorney-client confidentiality is safeguarded for meetings with clients.

(b) The workload of appointed counsel must be controlled to permit effective representation. Economic disincentives or incentives that impair the ability of appointed counsel to provide effective assistance of counsel must be avoided. The commission may develop workload controls to enhance appointed counsel's ability to provide effective representation.

(c) The ability, training and experience of appointed counsel must match the nature and complexity of the case to which the counsel is appointed.

(d) The same appointed counsel shall continuously represent a client throughout the pendency of the case and shall appear at every court appearance other than ministerial hearings.

(e) The commission shall establish continuing legal education requirements for public defense providers who are employed by or contract with the commission that are specific to the subject matter area and practice of each type of court-appointed counsel.

(f) The commission and public defense providers shall systematically review appointed counsel for efficiency and for effective representation according to commission standards.

(3) The commission shall be organized in a manner for the effective delivery of public defense services as prescribed by the policies and procedures created pursuant to statute to financially eligible persons and consistent with the budgetary structure established for the commission by the Legislative Assembly.

(4) The commission shall hire attorneys to serve as appointed counsel, including at the trial level in Oregon circuit courts, and may establish a trial division within the commission consisting of attorneys employed by the commission who are trial-level public defense providers.

(5) The policies, procedures, standards and guidelines adopted by the commission must be made available in an accessible manner to the public on the commission's website.

(6) Policies, procedures, standards and guidelines adopted by the commission supersede any conflicting rules, policies or procedures of the Public Defender Committee, State Court Administrator, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review Board related to the exercise of the commission's administrative responsibilities under this section and transferred duties, functions and powers as they occur.

(7) The commission may accept gifts, grants or contributions from any source, whether public or private. However, the commission may not accept a gift, grant or contribution if acceptance would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the Public Defense Services Account established by ORS 151.225 and expended for the purposes for which given or granted.

(8) With the approval of a majority of the voting members of the commission, the commission may advocate for or against legislation before the Legislative Assembly or policies or budgets being considered by the Legislative Assembly.

(9) The commission shall request that the Governor include in the Governor's requested budget, for each fiscal period, at a minimum, the amount of funds identified by the commission as being necessary to carry out the duties and activities of the commission.

(10) The commission may adopt rules pursuant to ORS chapter 183.

Note 2: The amendments to 151.216 by section 94, chapter 281, Oregon Laws 2023, become operative July 1, 2025. See section 102, chapter 281, Oregon Laws 2023. The text that is operative from July 1, 2025, until July 1, 2027, is set forth for the user's convenience.

151.216. (1) The Oregon Public Defense Commission shall:

(a) Establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.

(b) Adopt policies for public defense providers that:

(A) Ensure compensation, resources and caseloads are in accordance with national and regional best practices;

(B) Ensure all public defense provider contracts provide for compensation that is commensurate with the character of service performed;

(C) Ensure funding and resources to support required data collection and training requirements; and

(D) Recognize the need to consider overhead costs that account for the cost of living and business cost differences in each county or jurisdiction, including but not limited to rent, professional membership dues, malpractice insurance and other insurance and other reasonable and usual operating costs.

(c) Establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion and culturally specific representation.

(d) Review the caseload policies described in paragraph (b)(A) of this subsection annually, and revise the policies as necessary and at least every four years.

(e) Adopt a statewide workload plan, based on the caseload policies described in paragraph (b)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice structure and type of practice overseen by the commission.

(f) Submit the budget of the commission to the Legislative Assembly after the budget is submitted to the commission by the executive director and approved by the voting members of the commission. The chairperson of the commission shall present the budget to the Legislative Assembly.

(g) Adopt a compensation plan, classification system and affirmative action plan for the commission that are commensurate with other state agencies.

(h) Adopt policies, procedures, standards and guidelines regarding:

(A) The determination of financial eligibility of persons entitled to be represented by appointed counsel at state expense;

(B) The appointment of counsel, including the appointment of counsel at state expense regardless of financial eligibility in juvenile delinquency matters;

(C) The fair compensation of counsel appointed to represent a person financially eligible for appointed counsel at state expense;

(D) Appointed counsel compensation disputes;

(E) The costs associated with the representation of a person by appointed counsel in the state courts that are required to be paid by the state; and

(F) The types of fees and expenses subject to a preauthorization requirement.

(i) Reimburse the State Court Administrator from funds deposited in the Public Defense Services Account established by ORS 151.225 for the costs of personnel and other costs associated with location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State Court Administrator.

(j) Develop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions. The policies, procedures, standards and guidelines described in this paragraph apply to employees of the commission and to any person or entity that contracts with the commission to provide public defense services in this state.

(k) Set minimum standards by which appointed counsel are trained and supervised.

(L) Establish a system, policies and procedures for the mandatory collection of data concerning the operation of the commission and all public defense providers.

(m) Enter into contracts and hire attorneys to bring the delivery of public defense services into and maintain compliance with the minimum policies, procedures, standards and guidelines described in this subsection. All contracts for the provision of public defense services to which the commission is a party must include a requirement for collection by the commission of data determined by the commission to be qualitatively necessary for any report required to be submitted to the Legislative Assembly.

(n) At least once every two years, report to the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in ORS 192.245, and to the Governor and Chief Justice, concerning compliance metrics for the minimum standards described in this subsection and recommendations for legislative changes.

(o) Develop standard operating expectations for persons and entities providing public defense services.

(p) In consultation with the Judicial Department, ensure the existence of policies that create a standardized process for determining and verifying financial eligibility for appointed counsel under ORS 151.485.

(q) Ensure access to systematic and comprehensive training programs for attorneys for the purpose of meeting statewide standards set by the commission.

(r) Enter into contracts or interagency agreements with the Oregon Department of Administrative Services for the purpose of supporting state public defense population forecasts and other related forecasts.

(s) Establish any other policies, procedures, standards and guidelines for the conduct of the commission's affairs and promulgate policies necessary to carry out all powers and duties of the commission.

(2) When establishing the minimum policies, procedures, standards and guidelines described in this section, the commission shall adhere to the following principles:

(a) Appointed counsel shall be provided sufficient time and a space where attorney-client confidentiality is safeguarded for meetings with clients.

(b) The workload of appointed counsel must be controlled to permit effective representation. Economic disincentives or incentives that impair the ability of appointed counsel to provide effective assistance of counsel must be avoided. The commission may develop workload controls to enhance appointed counsel's ability to provide effective representation.

(c) The ability, training and experience of appointed counsel must match the nature and complexity of the case to which the counsel is appointed.

(d) The same appointed counsel shall continuously represent a client throughout the pendency of the case and shall appear at every court appearance other than ministerial hearings.

(e) The commission shall establish continuing legal education requirements for public defense providers who are employed by or contract with the commission that are specific to the subject matter area and practice of each type of court-appointed counsel.

(f) The commission and public defense providers shall systematically review appointed counsel for efficiency and for effective representation according to commission standards.

(3) The commission shall be organized in a manner for the effective delivery of public defense services as prescribed by the policies and procedures created pursuant to statute to financially eligible persons and consistent with the budgetary structure established for the commission by the Legislative Assembly.

(4) The commission shall hire attorneys to serve as appointed counsel, including at the trial level in Oregon circuit courts, and shall establish a trial division within the commission consisting of attorneys employed by the commission who are trial-level public defense providers.

(5)(a) The commission shall establish, supervise and maintain a panel of qualified counsel who contract with the commission and are directly assigned to cases. The commission shall develop a process for certification of attorneys to the panel with periodic eligibility and case review. Panel attorneys are not employees of the commission.

(b) The payment of panel counsel:

(A) May not be lower than the hourly rate established by the commission.

(B) Shall be adjusted to reflect the same percentage amount of any positive cost of living adjustment granted to employees in the management service in other executive branch agencies.

(C) May not provide a financial conflict of interest or economic incentives or disincentives that impair an attorney's ability to provide effective representation.

(6)(a) The commission may enter into contracts for the provision of public defense services with nonprofit public defense organizations.

(b) The commission may enter into contracts with entities that subcontract with other entities or persons for the provision of public defense services.

(c) The commission may not enter into a contract or agreement that pays appointed counsel a flat fee per case.

(7) The policies, procedures, standards and guidelines adopted by the commission must be made available in an accessible manner to the public on the commission's website.

(8) Policies, procedures, standards and guidelines adopted by the commission supersede any conflicting rules, policies or procedures of the Public Defender Committee, State Court Administrator, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review Board related to the exercise of the commission's administrative responsibilities under this section and transferred duties, functions and powers as they occur.

(9) The commission may accept gifts, grants or contributions from any source, whether public or private. However, the commission may not accept a gift, grant or contribution if acceptance would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the Public Defense Services Account established by ORS 151.225 and expended for the purposes for which given or granted.

(10) With the approval of a majority of the voting members of the commission, the commission may advocate for or against legislation before the Legislative Assembly or policies or budgets being considered by the Legislative Assembly.

(11) The commission shall request that the Governor include in the Governor's requested budget, for each fiscal period, at a minimum, the amount of funds identified by the commission as being necessary to carry out the duties and activities of the commission.

(12) The commission may adopt rules pursuant to ORS chapter 183.

Note 3: The amendments to 151.216 by section 101, chapter 281, Oregon Laws 2023, become operative July 1, 2027. See section 102, chapter 281, Oregon Laws 2023. The text that is operative on and after July 1, 2027, is set forth for the user's convenience.

151.216. (1) The Oregon Public Defense Commission shall:

(a) Establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.

(b) Adopt policies for public defense providers that:

(A) Ensure compensation, resources and caseloads are in accordance with national and regional best practices;

(B) Ensure all public defense provider contracts provide for compensation that is commensurate with the character of service performed;

(C) Ensure funding and resources to support required data collection and training requirements; and

(D) Recognize the need to consider overhead costs that account for the cost of living and business cost differences in each county or jurisdiction, including but not limited to rent, professional membership dues, malpractice insurance and other insurance and other reasonable and usual operating costs.

(c) Establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion and culturally specific representation.

(d) Review the caseload policies described in paragraph (b)(A) of this subsection annually, and revise the policies as necessary and at least every four years.

(e) Adopt a statewide workload plan, based on the caseload policies described in paragraph (b)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice structure and type of practice overseen by the commission.

(f) Submit the budget of the commission to the Legislative Assembly after the budget is submitted to the commission by the executive director and approved by the voting members of the commission. The chairperson of the commission shall present the budget to the Legislative Assembly.

(g) Adopt a compensation plan, classification system and affirmative action plan for the commission that are commensurate with other state agencies.

(h) Adopt policies, procedures, standards and guidelines regarding:

(A) The determination of financial eligibility of persons entitled to be represented by appointed counsel at state expense;

(B) The appointment of counsel, including the appointment of counsel at state expense regardless of financial eligibility in juvenile delinquency matters;

(C) The fair compensation of counsel appointed to represent a person financially eligible for appointed counsel at state expense;

(D) Appointed counsel compensation disputes;

(E) The costs associated with the representation of a person by appointed counsel in the state courts that are required to be paid by the state; and

(F) The types of fees and expenses subject to a preauthorization requirement.

(i) Reimburse the State Court Administrator from funds deposited in the Public Defense Services Account established by ORS 151.225 for the costs of personnel and other costs associated with location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State Court Administrator.

(j) Develop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions. The policies, procedures, standards and guidelines described in this paragraph apply to employees of the commission and to any person or entity that contracts with the commission to provide public defense services in this state.

(k) Set minimum standards by which appointed counsel are trained and supervised.

(L) Establish a system, policies and procedures for the mandatory collection of data concerning the operation of the commission and all public defense providers.

(m) Enter into contracts and hire attorneys to bring the delivery of public defense services into and maintain compliance with the minimum policies, procedures, standards and guidelines described in this subsection. All contracts for the provision of public defense services to which the commission is a party must include a requirement for collection by the commission of data determined by the commission to be qualitatively necessary for any report required to be submitted to the Legislative Assembly.

(n) At least once every two years, report to the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in ORS 192.245, and to the Governor and Chief Justice, concerning compliance metrics for the minimum standards described in this subsection and recommendations for legislative changes.

(o) Develop standard operating expectations for persons and entities providing public defense services.

(p) In consultation with the Judicial Department, ensure the existence of policies that create a standardized process for determining and verifying financial eligibility for appointed counsel under ORS 151.485.

(q) Ensure access to systematic and comprehensive training programs for attorneys for the purpose of meeting statewide standards set by the commission.

(r) Enter into contracts or interagency agreements with the Oregon Department of Administrative Services for the purpose of supporting state public defense population forecasts and other related forecasts.

(s) Establish any other policies, procedures, standards and guidelines for the conduct of the commission's affairs and promulgate policies necessary to carry out all powers and duties of the commission.

(2) When establishing the minimum policies, procedures, standards and guidelines described in this section, the commission shall adhere to the following principles:

(a) Appointed counsel shall be provided sufficient time and a space where attorney-client confidentiality is safeguarded for meetings with clients.

(b) The workload of appointed counsel must be controlled to permit effective representation. Economic disincentives or incentives that impair the ability of appointed counsel to provide effective assistance of counsel must be avoided. The commission may develop workload controls to enhance appointed counsel's ability to provide effective representation.

(c) The ability, training and experience of appointed counsel must match the nature and complexity of the case to which the counsel is appointed.

(d) The same appointed counsel shall continuously represent a client throughout the pendency of the case and shall appear at every court appearance other than ministerial hearings.

(e) The commission shall establish continuing legal education requirements for public defense providers who are employed by or contract with the commission that are specific to the subject matter area and practice of each type of court-appointed counsel.

(f) The commission and public defense providers shall systematically review appointed counsel for efficiency and for effective representation according to commission standards.

(3) The commission shall be organized in a manner for the effective delivery of public defense services as prescribed by the policies and procedures created pursuant to statute to financially eligible persons and consistent with the budgetary structure established for the commission by the Legislative Assembly.

(4) The commission shall hire attorneys to serve as appointed counsel, including at the trial level in Oregon circuit courts, and shall establish a trial division within the commission consisting of attorneys employed by the commission who are trial-level public defense providers.

(5)(a) The commission shall establish, supervise and maintain a panel of qualified counsel who contract with the commission and are directly assigned to cases. The commission shall develop a process for certification of attorneys to the panel with periodic eligibility and case review. Panel attorneys are not employees of the commission.

(b) The payment of panel counsel:

(A) May not be lower than the hourly rate established by the commission.

(B) Shall be adjusted to reflect the same percentage amount of any positive cost of living adjustment granted to employees in the management service in other executive branch agencies.

(C) May not provide a financial conflict of interest or economic incentives or disincentives that impair an attorney's ability to provide effective representation.

(6)(a) The commission may enter into contracts for the provision of public defense services with nonprofit public defense organizations.

(b) The commission may not enter into a contract or agreement that pays appointed counsel a flat fee per case.

(7) The policies, procedures, standards and guidelines adopted by the commission must be made available in an accessible manner to the public on the commission's website.

(8) Policies, procedures, standards and guidelines adopted by the commission supersede any conflicting rules, policies or procedures of the Public Defender Committee, State Court Administrator, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review Board related to the exercise of the commission's administrative responsibilities under this section and transferred duties, functions and powers as they occur.

(9) The commission may accept gifts, grants or contributions from any source, whether public or private. However, the commission may not accept a gift, grant or contribution if acceptance would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the Public Defense Services Account established by ORS 151.225 and expended for the purposes for which given or granted.

(10) With the approval of a majority of the voting members of the commission, the commission may advocate for or against legislation before the Legislative Assembly or policies or budgets being considered by the Legislative Assembly.

(11) The commission shall request that the Governor include in the Governor's requested budget, for each fiscal period, at a minimum, the amount of funds identified by the commission as being necessary to carry out the duties and activities of the commission.

(12) The commission may adopt rules pursuant to ORS chapter 183.

Note 4: See second note under 151.211.

151.219 Executive director; duties. (1) The executive director of the Oregon Public Defense Commission shall:

(a) Designate a deputy director of the commission who serves at the pleasure of the executive director.

(b) Hire necessary staff for the commission.

(c) Recommend to the commission how to establish and maintain, in a cost-effective manner, the delivery of legal services to persons entitled to, and, where applicable, financially eligible for, appointed counsel at state expense under Oregon statutes, the Oregon Constitution, the United States Constitution and consistent with Oregon and national standards of justice.

(d) Implement and ensure compliance with contracts, policies, procedures, standards and guidelines adopted by the commission or required by statute.

(e) Prepare and submit to the commission for its approval the biennial budget of the commission.

(f) Negotiate contracts, as appropriate, for providing legal services to persons eligible for appointed counsel at state expense.

(g) Employ personnel or contract for services as necessary to carry out the responsibilities of the executive director and the commission.

(h) Supervise the personnel, operation and activities of the commission.

(i) Provide services, facilities and materials necessary for the performance of the duties, functions and powers of the commission.

(j) Pay the expenses of the commission.

(k) Prepare and submit to the members of the commission an annual report of the activities of the commission.

(L) Provide for legal representation, advice and consultation for the commission, its members, the executive director and staff of the commission who require such services or who are named as defendants in lawsuits arising from their duties, functions and responsibilities. If requested by the executive director, the Attorney General may also provide for legal representation, advice and consultation for the commission, its members, the executive director and staff of the commission in litigation.

(2) The executive director may:

(a) Designate persons as representatives of the executive director for the purposes of determining and paying bills submitted to the commission and determining preauthorization for incurring fees and expenses under ORS 135.055.

(b) Establish an external advisory group to assist in developing the standard operating expectations for persons and entities providing public defense services. [2001 c.962 §§4,106a; 2003 c.449 §§3,4; 2021 c.597 §10; 2023 c.281 §4]

Note: The amendments to 151.219 by section 95, chapter 281, Oregon Laws 2023, become operative July 1, 2025. See section 102, chapter 281, Oregon Laws 2023. The text that is operative on and after July 1, 2025, is set forth for the user's convenience.

151.219 (1) The executive director of the Oregon Public Defense Commission shall:

(a) Designate a deputy director of the commission who serves at the pleasure of the executive director.

(b) Hire necessary staff for the commission.

(c) Recommend to the commission how to establish and maintain, in a cost-effective manner, the delivery of legal services to persons entitled to, and, where applicable, financially eligible for, appointed counsel at state expense under Oregon statutes, the Oregon Constitution, the United States Constitution and consistent with Oregon and national standards of justice.

(d) Implement and ensure compliance with contracts, policies, procedures, standards and guidelines adopted by the commission or required by statute.

(e) Prepare and submit to the commission for its approval the biennial budget of the commission.

(f) Negotiate contracts, as appropriate, for providing legal services to persons eligible for appointed counsel at state expense in accordance with ORS 151.216 (5) and (6).

(g) Employ personnel or contract for services as necessary to carry out the responsibilities of the executive director and the commission.

(h) Supervise the personnel, operation and activities of the commission.

(i) Provide services, facilities and materials necessary for the performance of the duties, functions and powers of the commission.

(j) Pay the expenses of the commission.

(k) Prepare and submit to the members of the commission an annual report of the activities of the commission.

(L) Provide for legal representation, advice and consultation for the commission, its members, the executive director and staff of the commission who require such services or who are named as defendants in lawsuits arising from their duties, functions and responsibilities. If requested by the executive director, the Attorney General may also provide for legal representation, advice and consultation for the commission, its members, the executive director and staff of the commission in litigation.

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(a) Designate persons as representatives of the executive director for the purposes of determining and paying bills submitted to the commission and determining preauthorization for incurring fees and expenses under ORS 135.055.

(b) Establish an external advisory group to assist in developing the standard operating expectations for persons and entities providing public defense services.

Note: See second note under 151.211.

Note: Section 14 (3)(a), chapter 281, Oregon Laws 2023, provides:

Sec. 14. (3)(a) Notwithstanding ORS 151.213 (6)(b), and subject to the provisions of sections 92 (3) and 102 (2) of this 2023 Act, on January 1, 2024, the public defense services executive director shall begin a four-year term as executive director of the Oregon Public Defense Commission, and is subject to termination or reappointment as described in ORS 151.213 (6)(b). [2023 c.281 §14(3)(a)]

Note: Section 92 (3)(b), chapter 281, Oregon Laws 2023, provides:

Sec. 92. (3)(b) The person serving as executive director of the Oregon Public Defense Commission on January 1, 2025, may finish the person's term as executive director and is eligible for reappointment, but, beginning on January 1, 2025, and continuing until July 1, 2027, serves at the pleasure of the Governor. [2023 c.281 §92(3)(b)]

Note: Section 102 (2)(b), chapter 281, Oregon Laws 2023, provides:

Sec. 102. (2)(b) The person serving as executive director of the Oregon Public Defense Commission on July 1, 2027, may finish the person's term as executive director and is eligible for reappointment, but, beginning on July 1, 2027, serves at the pleasure of the voting members of the commission. [2023 c.281 §102(2)(b)]

151.220 [Formerly 138.740; repealed by 2001 c.962 §114]

151.221 Status of officers and employees of commission. Officers and employees of the Oregon Public Defense Commission are state officers or employees in the exempt service and are not subject to ORS chapter 240. [2003 c.449 §17; 2023 c.281 §5]

Note: See second note under 151.211.

PUBLIC MEETINGS

192.610 Definitions for ORS 192.610 to 192.705. As used in ORS 192.610 to 192.705:

- (1) “Convening” means:
 - (a) Gathering in a physical location;
 - (b) Using electronic, video or telephonic technology to be able to communicate contemporaneously among participants;
 - (c) Using serial electronic written communication among participants; or
 - (d) Using an intermediary to communicate among participants.
- (2) “Decision” means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which a quorum is present.
- (3) “Deliberation” means discussion or communication that is part of a decision-making process.
- (4) “Executive session” means any meeting or part of a meeting of a governing body which is closed to certain persons for deliberation on certain matters.
- (5) “Governing body” means the members of any public body which consists of two or more members, with the authority to make decisions for or recommendations to a public body on policy or administration.
- (6) “Public body” means the state, any regional council, county, city or district, or any municipal or public corporation, or any board, department, commission, council, bureau, committee or subcommittee or advisory group or any other agency thereof.
- (7)(a) “Meeting” means the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter.
- (b) “Meeting” does not include any on-site inspection of any project or program or the attendance of members of a governing body at any national, regional or state association to which the public body or the members belong. [1973 c.172 §2; 1979 c.644 §1; 2023 c.417 §1]

192.660 Executive sessions permitted on certain matters; procedures; news media representatives’ attendance; limits; advisory opinions. (1) ORS 192.610 to 192.705 do not prevent the governing body of a public body from holding executive session during a regular, special or emergency meeting, after the presiding officer has identified the authorization under ORS 192.610 to 192.705 for holding the executive session.

- (2) The governing body of a public body may hold an executive session:
 - (a) To consider the employment of a public officer, employee, staff member or individual agent.
 - (b) To consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent who does not request an open hearing.
 - (c) To consider matters pertaining to the function of the medical staff of a public hospital licensed pursuant to ORS 441.015 to 441.119 and 441.993 including, but not limited to, all clinical committees, executive, credentials, utilization review, peer review committees and all other matters relating to medical competency in the hospital.
 - (d) To conduct deliberations with persons designated by the governing body to carry on labor negotiations.

(e) To conduct deliberations with persons designated by the governing body to negotiate real property transactions.

(f) To consider information or records that are exempt by law from public inspection.

(g) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations.

(h) To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

(i) To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing.

(j) To carry on negotiations under ORS chapter 293 with private persons or businesses regarding proposed acquisition, exchange or liquidation of public investments.

(k) To consider matters relating to school safety or a plan that responds to safety threats made toward a school.

(L) If the governing body is a health professional regulatory board, to consider information obtained as part of an investigation of licensee or applicant conduct.

(m) If the governing body is the State Landscape Architect Board, or an advisory committee to the board, to consider information obtained as part of an investigation of registrant or applicant conduct.

(n) To discuss information about review or approval of programs relating to the security of any of the following:

(A) A nuclear-powered thermal power plant or nuclear installation.

(B) Transportation of radioactive material derived from or destined for a nuclear-fueled thermal power plant or nuclear installation.

(C) Generation, storage or conveyance of:

(i) Electricity;

(ii) Gas in liquefied or gaseous form;

(iii) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

(iv) Petroleum products;

(v) Sewage; or

(vi) Water.

(D) Telecommunication systems, including cellular, wireless or radio systems.

(E) Data transmissions by whatever means provided.

(o) To consider matters relating to the safety of the governing body and of public body staff and volunteers and the security of public body facilities and meeting spaces.

(p) To consider matters relating to cyber security infrastructure and responses to cyber security threats.

(3) Labor negotiations shall be conducted in open meetings unless negotiators for both sides request that negotiations be conducted in executive session. Labor negotiations conducted in executive session are not subject to the notification requirements of ORS 192.640.

(4) Representatives of the news media shall be allowed to attend executive sessions other than those held under subsection (2)(d) of this section relating to labor negotiations or executive session held pursuant to ORS 332.061 (2) but the governing body may require that specified information be undisclosed.

(5) When a governing body convenes an executive session under subsection (2)(h) of this section relating to conferring with counsel on current litigation or litigation likely to be filed, the

governing body shall bar any member of the news media from attending the executive session if the member of the news media is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation.

(6) No executive session may be held for the purpose of taking any final action or making any final decision.

(7) The exception granted by subsection (2)(a) of this section does not apply to:

(a) The filling of a vacancy in an elective office.

(b) The filling of a vacancy on any public committee, commission or other advisory group.

(c) The consideration of general employment policies.

(d) The employment of the chief executive officer, other public officers, employees and staff members of a public body unless:

(A) The public body has advertised the vacancy;

(B) The public body has adopted regular hiring procedures;

(C) In the case of an officer, the public has had the opportunity to comment on the employment of the officer; and

(D) In the case of a chief executive officer, the governing body has adopted hiring standards, criteria and policy directives in meetings open to the public in which the public has had the opportunity to comment on the standards, criteria and policy directives.

(8) A governing body may not use an executive session for purposes of evaluating a chief executive officer or other officer, employee or staff member to conduct a general evaluation of an agency goal, objective or operation or any directive to personnel concerning agency goals, objectives, operations or programs.

(9) Notwithstanding subsections (2) and (6) of this section and ORS 192.650:

(a) ORS 676.175 governs the public disclosure of minutes, transcripts or recordings relating to the substance and disposition of licensee or applicant conduct investigated by a health professional regulatory board.

(b) ORS 671.338 governs the public disclosure of minutes, transcripts or recordings relating to the substance and disposition of registrant or applicant conduct investigated by the State Landscape Architect Board or an advisory committee to the board.

(10) Any person may submit to the Oregon Government Ethics Commission:

(a) A written request for the commission to issue and publish a commission advisory opinion under ORS 244.280 on the application of this section to any actual or hypothetical circumstance;

(b) A written request for the executive director of the Oregon Government Ethics Commission to issue and publish a staff advisory opinion under ORS 244.282 on the application of this section to any actual or hypothetical circumstance; or

(c) A written or oral request for the executive director or other staff of the commission to issue written or oral staff advice under ORS 244.284 on the application of this section to any actual or hypothetical circumstance.

(11) Notwithstanding ORS 244.290, the Oregon Government Ethics Commission may not adopt rules that establish what entities are considered representatives of the news media that are entitled to attend executive sessions under subsection (4) of this section. [1973 c.172 §6; 1975 c.664 §2; 1979 c.644 §5; 1981 c.302 §1; 1983 c.453 §1; 1985 c.657 §2; 1995 c.779 §1; 1997 c.173 §1; 1997 c.594 §1; 1997 c.791 §9; 2001 c.950 §10; 2003 c.524 §4; 2005 c.22 §134; 2007 c.602 §11; 2009 c.792 §32; 2015 c.421 §2; 2015 c.666 §3; 2018 c.50 §11; 2021 c.264 §4; 2023 c.252 §1]