

By-Laws of the Commission on Statewide Law Enforcement Standards of Conduct and Discipline - Draft

1. Name and Purpose

The Commission on Statewide Law Enforcement Standards of Conduct and Discipline (LESC) was established by House Bill 2930 (2021), codified at ORS 243.812, which directs the LESC to set statewide standards of conduct and discipline for law enforcement officers.

The Commission is charged with adopting rules that prescribe uniform standards of conduct, including guidelines and procedures to which law enforcement officers shall adhere, and disciplinary standards and procedures.

2. Membership

A. Composition:

The Commission shall consist of 15 members, 13 voting and 2 non-voting members, as specified by ORS 243.812 (2), representing the following professional and community interests:

- The Director of the Department of Public Safety Standards and Training or department designee
- The Attorney General or department designee
- One representative appointed by the Speaker of the House
- One senator appointed by the President of the Senate

Eleven members appointed by the Attorney General:

- Two Chief Law Enforcement Officers
- Two members representing labor organizations that represent law enforcement officers
- Two members representing historically marginalized groups or community-based organizations that represent communities impacted by policing
- One member representing a federally recognized Indian tribe or association of tribes in Oregon
- Two members representing local government and the interests of cities and counties
- One member representing public defender organizations (under ORS chapter 151) or the Oregon Criminal Defense Lawyers Association
- One member representing the interests of Oregon prosecutors.

B. Terms of Service:

Members shall serve for terms of 2 years, with the possibility of reappointment for consecutive terms, except for those members who serve by virtue of office. Terms for the 11 appointed members shall be staggered so that no more than 6 terms expire in any given year.

C. Vacancies:

1. Exception of positions filled by DPSST, the House and the Senate, vacancies shall be filled through appointment by the Attorney General.
2. Vacancies occurring mid-term will be handled in the same manner as initial appointments, with newly appointed members completing the term of the person they are replacing.

D. Removal and Resignation:

A Commissioner may resign prior to the end of their term by notifying the Chair or Executive Director in writing.

A Commissioner appointed by the Attorney General may be removed at the discretion of the Attorney General. Grounds for removal may include, but are not limited to, a violation of the by-laws, a policy, rule or statute; failure to perform the duties of a commissioner; failure to uphold the professional and ethical expectations of a public official; or failure to attend meetings without adequate cause.

A commissioner is also subject to removal from the commission if, at any time during the commissioner's term, the commissioner no longer meets the membership requirements for the position for which the commissioner was appointed.

3. Roles and Responsibilities

A. Chairperson of the Commission

- The Chairperson (Chair) shall be the Attorney General or their designee. The Chair may convene and preside over meetings of the Commission, or those portions of meetings that include substantive Commission actions, including but not limited to review and adoption of standards, guides, and major decisions.
- The Chair may represent the Commission in public forums, legislative hearings, and before community groups, or delegate these duties to the Executive Director, or to one or more commissioners, as appropriate.

B. Commissioners

- Commissioners act as liaisons and conduits for information exchange between their constituencies and the Commission. However, as public officials, their primary responsibility is to the public, and the benefit of the public. Commissioners are expected to consider the broader statewide impact of decisions, adhering to existing statutes and administrative rules.
- The primary responsibilities of Commissioners include preparing for and attending meetings, engaging in decision-making and resulting official actions.
- Commissioners may assume a policy advocacy role, proposing changes to policies, practices, statutes or rules to support the commission's objectives and the public benefit.

C. Executive Director

- The Executive Director, a dedicated DOJ staff position, provides administrative and operational support to the commission. In coordination with the Chair, the Executive Director may convene and preside over meetings focused on operational planning, or the administrative portions of meetings.
- The Executive Director is also responsible for coordinating implementation of commission decisions, supporting the Commission's objectives, providing regular status updates and reports to the Commission, and other duties as assigned by the Chair.
- The Executive Director will coordinate research, data collection and analysis necessary for tracking and evaluation, reporting, and informed decision-making by the Commission, the legislature, and other stakeholders.
- In consultation and partnership with the Chair, the Executive Director serves as the public liaison for the Commission, representing the Commission with media, legislators, stakeholders, and other entities.

4. Meetings

A. Compliance with Oregon Public Meetings Law

Meetings will be held in accordance with Oregon Public Meetings Law (ORS 192.610-192.690). All meetings of the Commission shall be open to the public.

A quorum of commission members, whether in person, by phone or virtually, may not meet in private for the purpose of deciding on or deliberating toward a decision on any matter of the Commission. Commissioners should also avoid a series of private communications, even if a quorum isn't involved in any single communication.

B. Regular Meeting Frequency:

The Commission shall hold regular meetings, typically every other month, but no less than once per quarter, and more frequently as needed, based upon the active workload and responsibilities of the Commission, at such times and places as determined by the Chair or Executive Director.

C. Special Meetings, emergency meetings, executive session

1. Special Meetings:

Special meetings outside the usual cadence may be called by the Chair or the Executive Director and require at least 24 hours' notice to Commissioners, the general public, and any news media who have requested notice.

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2. Emergency Meetings

Emergency meetings may be called by the Chair or Executive Director on less than 24 hours' notice. An actual emergency must exist, and the public notice and the minutes of the meeting must describe the emergency justifying less than 24 hours' notice. As much notice as is appropriate to the circumstances must be given for emergency meetings. Commission staff must attempt to contact the media and other interested persons to inform them of the meeting.

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3. Executive Session

In limited circumstances, ORS 192.610 to 192.690 authorizes public bodies to hold executive sessions in which all or part of a meeting of a public body is closed to certain persons for deliberation. Primary among the allowable reasons is consideration of information or records that are exempt by law from public inspection.

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If a meeting will consist only of an executive session, notice must be given to the members of the governing body, to the general public, and to news media that have requested notice. The notice also must state the specific legal provision authorizing the executive session.

If a meeting will include both an executive session and a nonexecutive session, notices should give notice of both and state the statutory authority for the executive session.

- Topics discussed in executive session must be limited to those topics expressly permitted by the specific provisions under which the executive session was convened.
- Final action or a final decision may not be made in executive session.
- News media may attend most executive sessions, but the Commission may require that specified information be undisclosed.

D. Committees or workgroups

The Chair, in consultation with Commissioners, may create standing or Ad Hoc subcommittees for specific projects or subjects as necessary to carry out its work. Members may be appointed by the Chair and serve until the task is completed.

Each committee shall report back to the full Commission.

E. Notice Requirements:

A minimum of 48 hours notice will be provided for regularly scheduled meetings. Notices shall include the meeting agenda and any materials to be discussed, which will be made available on the Commission's official website, via email, the Oregon Transparency Website, and other public forums as appropriate.

F. Meeting Agendas

An agenda will be prepared by DOJ staff, in consultation with the Chair. Commissioners with agenda requests or suggestions, or materials they wish to share with the Commission, should contact the Executive Director at least one week prior to the meeting.

Discussions and actions of the Commission will not be limited to agenda items but may include any business consistent with the duties and responsibilities of the Commission.

Agendas will be included with public notice of meetings and posted online.

G. Requests for Accommodation

The Americans with Disabilities Act of 1990 (ADA) requires all programs, services and activities of state and local governmental agencies to be accessible to persons with disabilities.

Anyone needing an auxiliary aid or service, or a modification of policies or procedures to participate in public comment, virtual or live meetings, or any other Commission activity, should contact the Executive Director as soon as possible with the specific details of the accommodation requested, as some accommodations like room modifications or scheduling outside service providers may require extra time to arrange and coordinate.

The DOJ, on behalf of the Commission, will make a good faith effort to accommodate all reasonable accommodation requests, however the ADA does not require the DOJ to take action that alters the nature of its programs or activities, or imposes a financial or administrative burden.

H. Records

Every public meeting of the Commission will be recorded (by video, audio or in the form of written minutes) and made available to the public. Per ORS 192.640 and ORS 192.650,

Minutes will reflect the substance of discussions and the outcome of each vote. Records will be retained in accordance with the Secretary of State Archives Division Records Retention Schedule for DOJ.

5. Decision-making and Voting

A. Voting/Quorum

A quorum for any meeting of the Commission must consist of a majority of currently serving voting members. Official action by the commission requires the approval of a majority of the commission. All issues to be voted on shall be decided by a simple majority of the quorum at the meeting in which the vote takes place (and in no case less than 3 members).

Voting Procedures

The Chair is a voting member. Each voting member of the Commission shall have one vote. Only officially appointed members may vote. Exception of Consent Agenda items, commission member votes must be recorded by conducting a verbal roll call.

- **General Voting Requirements:** All votes of the Commission shall be conducted via roll call vote, with each member's vote individually recorded in the meeting minutes, except as provided below for consent agenda items.
- **Consent Agenda Exception:** The approval of minutes and other routine consent agenda items may be handled without a formal vote. The Chair shall ask if there are any corrections or changes to the minutes as presented. If no corrections are proposed, the Chair may declare the minutes approved by unanimous consent. If any commissioner requests that the minutes or other consent agenda items be amended or removed for further discussion, those items shall be moved to the regular agenda for consideration and a formal vote.

B. Participation

Commission members are appointed to make decisions regarding policies and standards governing law enforcement conduct and discipline, and their implementation. To abstain from a vote is to fail to perform a most important function of a Commission member. Absent compelling circumstances or conflicts of interest, Commission members should not abstain from voting.

Deliberation of issues will only be conducted by Commissioners. At the discretion of the Chair, individuals other than Commissioners may address the Commission upon approval of a written request submitted to the Executive Director or the Chair prior to the meeting.

The Chair may also allow non-members, other than invited guests, to address the Commission at a meeting, provided they adhere to the subject and limit their presentation as requested by the Chair.

C. Conflicts of Interest/Potential Conflict of Interest

Conflicts of interest occur when a committee member has competing interests or loyalties in a matter being presented for discussion, recommendation or vote. Commissioners with an actual or apparent financial or personal interest in any matter coming before the Commission must disclose in a public meeting the nature of the interest.

Commissioners experiencing a *potential* or perceived conflict of interest will be allowed to participate in discussions, recommendations or votes upon declaring their ability to remain unbiased.

Commissioners experiencing an *actual* conflict of interest must withdraw from any discussion or voting on the issue that gives rise to the conflict of interest.

Exception: If a commissioner has an actual conflict of interest and their vote is necessary to meet the minimum number of votes required for official action, the commissioner may vote, after making the required public disclosure. In such cases they should refrain from further discussion or debate but may participate in the required vote.

The minutes of meetings at which such votes are taken shall record such disclosure, abstention or rationale for participation.

D. Handling Absences and Decisions:

Commissioners are encouraged to attend meetings and to provide input in a timely manner. Discussions and decisions should not be delayed based on the absence of particular members, unless there is a specific rule (such as a quorum) that requires certain attendance levels. Commission decisions should proceed as scheduled, even in the absence of some commissioners or invited guests, provided that a quorum is present.

6. Meeting Conduct

A. Respectful and Inclusive Discussion:

All commissioners have valued perspectives and shall be given an equal opportunity to contribute to discussions. All meeting participants are expected to engage in open and respectful dialogue.

Commissioners and guests should be mindful of the business needs of the agenda and endeavor to keep their contributions to the discussion constructive, concise and focused on the agenda item under consideration.

B. Role of Chair/Executive Director in Managing Discussions:

The Chair or Executive Director reserve the right to manage the discussion, ensuring each commissioner has an opportunity to contribute, and that discussions remain focused on the agenda items.

In the interest of productivity, the Chair or Executive Director may set time limits for discussion or comments, call for the conclusion of comments if they become unproductive, refocus if discussions go off-topic, and call for a vote when sufficient debate has occurred. Meeting participants should defer to the Chair's authority in facilitating discussion.

7. Public Participation, Outreach and Transparency

A. Hearings and Comment Periods:

The Commission shall provide opportunities for public comment, both in writing and at scheduled hearings. The public notice comment period shall remain open for at least 28 days before draft rules are finalized. All comments will be reviewed and considered by the Commission before any final vote.

B. Proactive Outreach and Public Engagement:

The Executive Director and/or Chair shall engage in proactive outreach to stakeholder agencies and groups, and may designate representatives of the Commission to engage in outreach, for the purpose of increasing awareness of the Standards and Guide, encouraging compliance, to educate, conduct research and evaluation, and solicit input on implementation and emerging issues. This outreach may include but is not limited to meetings, presentations, hosting public forums, conducting online surveys, or holding informational webinars to gather feedback from stakeholders.

8. Requests for Research or DOJ Staff Resources

Requests by commissioners for research, data analysis, or other assistance from Department of Justice staff must be made through the Executive Director.

All requests (exception of those made by commissioners or the Chair during Commission meetings) must be submitted by email to LESC@doj.oregon.gov, and responses will be provided in a timely manner.

The Executive Director shall determine the feasibility of the request based on available resources and the priorities of the Commission, and coordinate the requested services.

9. Expectations of Commissioners as Public Officials

A. Public Official Status

Commissioners are public officials of the State of Oregon. A “public official” is any person serving a public body as an elected or appointed official, employee or agent who, in their official capacity, act on behalf of state government.

B. Conduct and Ethical Standards

Commission members, as public officials, are held to a higher standard of conduct, integrity and professionalism than private citizens. Any actions of public officials are open to critical examination.

Public officials, including commissions and boards, get their authority from statutes, administrative rules, policies and procedures. As such, public officials are expected to adhere to all relevant statutes and policies, including ethics rules, conflict-of-interest regulations, and anti-discrimination laws.

Violations of these expectations may result in disciplinary action, including censure or removal from the Commission.

C. Training and policy review requirements

As public officials, commissioners may be required to participate in mandatory training sessions, or to review policies, procedures, statutes or other resources, to ensure familiarity with applicable expectations. Commissioners will receive notice of such requirements along with instructions on how to comply.

D. Confidential Information and Sensitive Matters

Commissioners may be privy to sensitive or confidential information during their service. Disclosure of confidential information obtained during Commission activities is strictly

prohibited unless authorized by the Commission, the Department of Justice, or as required by law.

All members are expected to exercise care in publicly discussing potentially sensitive or confidential matters in Commission meetings, and to maintain confidentiality in accordance with state law and any applicable federal statutes.

E. Media, Legislative, and Public Communication

Outside of Commission meetings, commissioners retain their rights as individuals to free speech, as well as to speak on behalf of their outside roles, but should exercise caution when discussing sensitive or controversial matters related to the Commission's work.

Commissioners shall avoid even the appearance of presenting themselves as official spokespersons for the Commission or for the Department of Justice without explicit prior authorization by the Chair, Executive Director, or Attorney General.

Commissioners should also be mindful of potential conflicts of interest between their roles on the Commission and their outside roles, employment or affiliations.

If individual commissioners receive inquiries or requests from the media, legislators, the governor's office, or other organizations or agencies seeking statements, actions or information regarding the Commission or its work, they shall notify the Executive Director as soon as reasonably possible, and prior to responding to the request, if possible.

If it is not possible to notify the Executive Director prior to an interaction, the commissioner should notify the Executive Director or the Chair as soon as practicable afterwards.

10. Records

A. Public Records

As public bodies, state commissions are subject to public records laws. "Public record" includes any recorded material (written, electronic, audio, video, images, etc.) that contains information relating to the conduct of the public's business, that is prepared, owned, used or retained by a public body, regardless of its physical form or characteristics.

B. Record retention

Public records must be maintained and managed to protect the integrity of LESC records from the time of creation to the time of final disposition of the public record as determined by the authorized records retention schedule, as outlined in the LESC Public Records Management Policy 2022-01.

When Commissioners use personal email accounts to conduct state business, they must copy LESC@doj.state.or.us on all outgoing communications, and forward any received messages to LESC@doj.state.or.us, immediately or as soon as practicably possible.

LESC commissioners and staff should avoid using text messages to communicate official Commission business or engage in discussions regarding the primary business of the Commission. If substantive discussion or information relating to Commission business is inadvertently transmitted through text message, all such messages must be forwarded to LESC@doj.state.or.us immediately or as soon as practicably possible.

Basic public records training may be included in LESC orientation training and incorporated as part of routine training.

C. Records Requests

DOJ on behalf of the Commission will respond to all official requests for public records as soon as practicable and without unreasonable delay, according to timelines outlined in ORS 192.324 and ORS 192.329.

Any records requests must be sent to the LESC email box, LESC@doj.oregon.gov, or mailed to the LESC Executive Director at 2250 McGilchrist St. SE, Suite 100, Salem OR 97302. Any requests for LESC records received by commissioners or other DOJ staff should be promptly forwarded to the Executive Director to ensure compliance with record request requirements and timelines.

11. Travel Reimbursement

- Commissioners are eligible for reimbursement of travel and other necessary expenses incurred in the performance of their official duties. All requests for reimbursement must comply with the applicable state travel policies and be submitted to the Executive Director for approval within 50 days of incurring the expense.
- Guidance for seeking reimbursement for travel and other authorized expenses will be made available to commissioners.

12. Review, revision or expansion of standards and guide

A. Regular Review of Standards and Practices:

- The *LESC Standards of Conduct and Discipline (OAR 265)* and the *Guide to LESC Rules* shall be reviewed at least every two years to ensure they remain relevant and effective.
- As part of this review process, the Commission will solicit public and agency feedback and may recommend updates or additions to the existing standards and guide.
- All proposed major changes to standards and guide are subject to agency and public comment prior to finalization.

B. Procedure for Amendments:

The Standards (OAR 265) may be amended by a majority vote of the Commission, which is then subject to the regular rules process.

The *Guide to LESC Rules* may also be amended by a majority vote, but is not subject to the regular rules process.

14. Annual Reporting

The Commission shall submit an annual report to the legislature by September 1 of each year. The annual report will include a summary of the work completed by the Commission in the previous year, and report on the progress toward statewide implementation of the LESC standards and guidelines. As part of this report, the LESC will collect data on statewide implementation practices.

Any changes to LESC Rules shall be reported annually by February 1 of each year.

15. Periodic Review and Amendment of By-laws

These by-laws shall be reviewed as needed to ensure they reflect the current responsibilities, practices, and priorities of the Commission. These bylaws may be amended by a majority vote of members at any regular meeting, provided the proposed amendment or amendments have been sent to each Commissioner at least five working days prior to the meeting.

These bylaws were approved at a meeting of the Commission on Law Enforcement Standards of Conduct and Discipline on [date.]