



# **An overview: Public Records and Public Meetings**

Commission on Statewide Law Enforcement Standards of Conduct and  
Discipline – March 31, 2022



# Public Records: Definitions

ORS 192.311 and ORS 192.314

- The general rule: Every person has a right to inspect any **public record** of a **public body**.
- “‘Public body’ includes every\* \* \*commission\* \* \*”
- “‘Public record’ includes any **writing** that contains information relating to the conduct of the public’s business\* \* \*prepared, owned, used or retained by a public body regardless of physical form or characteristics. ‘Public record’ does not include any writing that does not relate to the conduct of the public’s business and that is contained on a privately owned computer.”
- “‘Writing’ means\* \* \*every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, files, facsimiles or electronic recordings.”

# Public Records: Timelines and Fees

ORS 192.324 and ORS 192.329

- Overarching obligation is for public bodies to fulfill written public records requests “as soon as practicable and without unreasonable delay.” In addition, there are specific response timelines along the way and a handful of very narrow exceptions to those timelines.
- Public bodies may establish reasonable fees to reimburse for actual costs. Fees are waived or reduced when making the record available primarily benefits the general public. In [OAR 265-001-0010](#), the Commission has expressly adopted the Department of Administrative Services’ statewide fee [policy](#).

# Public Records: Enforcement

ORS 192.407 to ORS 192.431

- Public records obligations can be enforced by the courts and, administratively, by the Attorney General or District Attorney.
- Reviewable issues include:
  - Assessing whether exemptions do or do not apply.
  - Assessing whether a public body has complied with applicable timelines.
  - Assessing whether a denial of a fee waiver or fee reduction was reasonable.
- Remedies include ordering disclosure, imposing financial penalties, directing a fee waiver or reduction and requiring the payment of attorney fees.

# Public Meetings: Policy

ORS 192.620

Public Meeting Policy: The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies be arrived at openly.

# Public Meetings: Definitions

ORS 192.610 and ORS 192.630

- The general rules:
  - All **meetings** of the **governing body** of a **public body** shall be open to the public and all persons shall be permitted to attend any meeting.
  - A quorum of a governing body may not meet in private for the purpose of deciding on or deliberating toward a decision on any matter.
- “‘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.”
- “‘Public body’ means \* \* \*any \* \* \* commission \* \* \*”
- “‘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\* \* \* \*”

# Public Meetings: Notice and Minutes

ORS 192.640 and ORS 192.650

- Must provide public notice of the time and place for public meeting. The notice must include a list of the principal subjects anticipated to be considered at the meeting.
- Must record meeting or produce written minutes and must make publicly available. Minutes must contain specified information, including the substance of any discussion and the results of all votes.

# Public Meetings: Executive Session

ORS 192.640 to ORS 192.660

- “ORS 192.610 to 192.690 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 192.690 for holding the executive session.” In addition, if a public body posts a notice for an executive session, the notice must state the specific provision of law authorizing the executive session and must comply with applicable administrative rules.
- “‘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.”
- News media allowed to attend most executive sessions, but the governing body may require that specified information be undisclosed.



# Public Meetings: Executive Session

ORS 192.660 and OAR 199-040-0020

- There is a very specific list of topics that may be discussed in executive session. These topics include:
  - Considering the employment (i.e., hiring of) a public officer, employee, staff member or agent.
  - Considering information or records that are exempt by law from public inspection.
  - Consulting with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.
- The public body must also comply with any legal prerequisites to holding the executive session. For example, a public body may consider the employment of a public officer, employee or staff member, only if the vacancy has been advertised, the body has adopted hiring procedures and, in certain circumstances, the public has an opportunity to comment.
- 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.

# Public Meetings: Enforcement

ORS 192.680 and ORS 192.685

- Decisions that are made in a manner that does not comply with the public meetings law may be voided by the courts. In certain circumstances, the court may impose equitable relief it deems appropriate and may order payment of attorney fees and, if the court finds that violation resulted from willful misconduct, may order that the members of the governing body be liable for attorney fees.
- In addition, the Oregon Government Ethics Commission has enforcement authority over executive session violations. Although the Commission emphasizes education in achieving its mission, it does have the authority to impose civil penalties. This liability is personal to the members of the public body.
- The Oregon Government Ethics Commission has a robust [training program](#) and has the statutory authority to provide advice that, when complied with, can provide protections.

# Commission-related statute

ORS 243.812

\* \* \*

(6) The meetings of the commission shall be open to the public in accordance with state law. Records of the commission shall be open and available to the public in accordance with state law.

(7) The commission shall establish and implement an open hearing process for public input and deliberation before the commission adopts rules that establish the standards described under subsection (1) of this section, including:

(a) Public notice;

(b) Public outreach to solicit broad public participation; and

(c) Public hearings to receive public comment.

(8) A majority of the members of the commission constitutes a quorum for the transaction of business.

(9) Official action by the commission requires the approval of a majority of the commission.

\* \* \*