



PUBLIC MEETING

Do's and Don'ts

REQUIRED TRAINING APPROVED BY THE
OREGON GOVERNMENT ETHICS COMMISSION



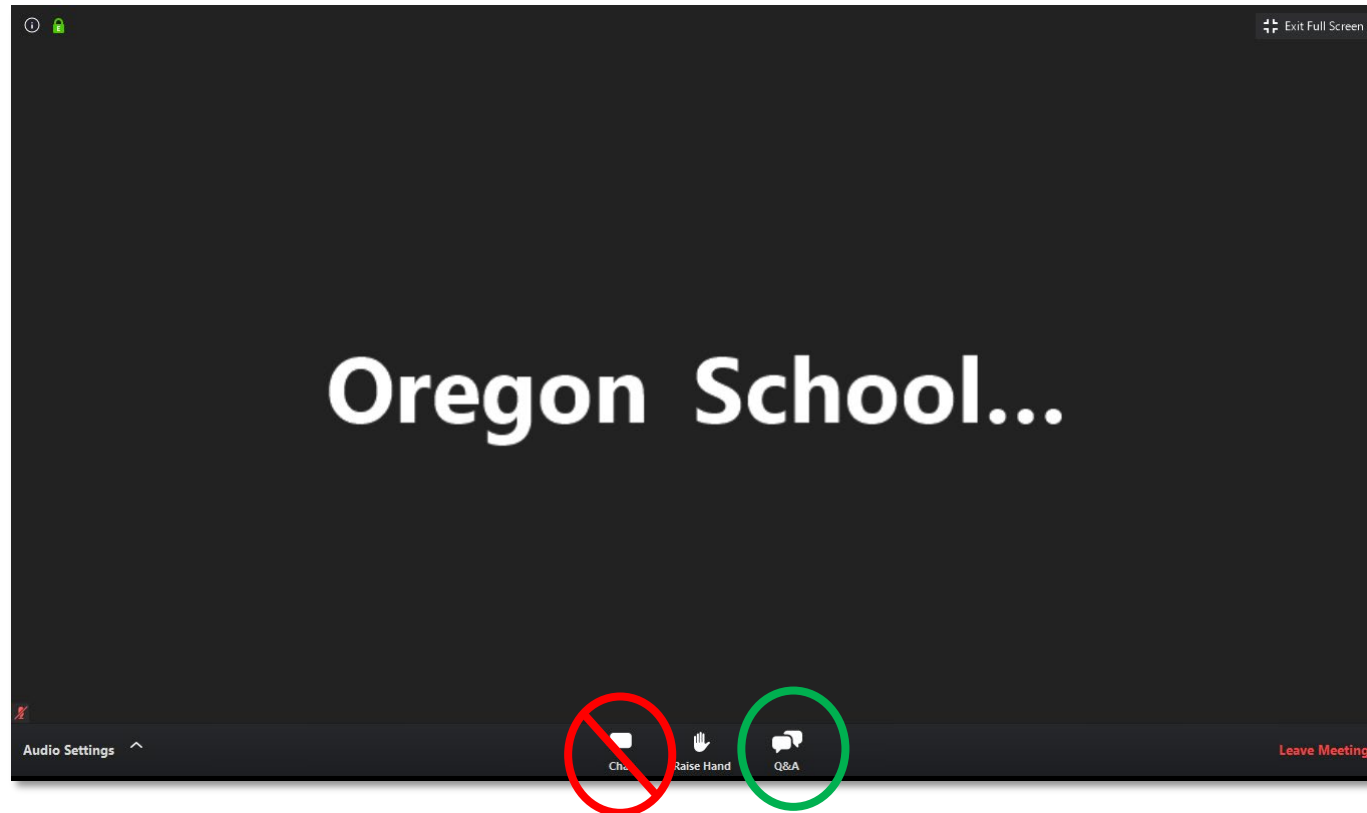
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The OSBA Leadership Institute was created to align conferences, workshops, on-site sessions and other leadership activities for board members into a recognition program. OSBA workshops meet the needs of busy people – some courses are online while others are offered in person at workshops and conferences. OSBA also presents custom on-site sessions to meet local needs.

How Certification Works	+
The Leadership Institute Individual Bronze Certificate of Completion This certificate is awarded to individuals who have successfully completed courses from the following foundational level categories, designed to introduce essential leadership principles. Participants are encouraged to complete the bronze level before advancing to the silver level, as it establishes core competencies in areas critical to governance and educational leadership: • Board Governance Essentials • Introduction to Educational Equity • Policy Fundamentals • Public Meetings and Ethics • School Finance and Budgeting Those attending a day-long preconference institute event focused on the bronze level will receive a Certificate of Completion but are encouraged to proceed sequentially to fully benefit from the program.	×
The Leadership Institute Individual Silver Certificate of Completion	+
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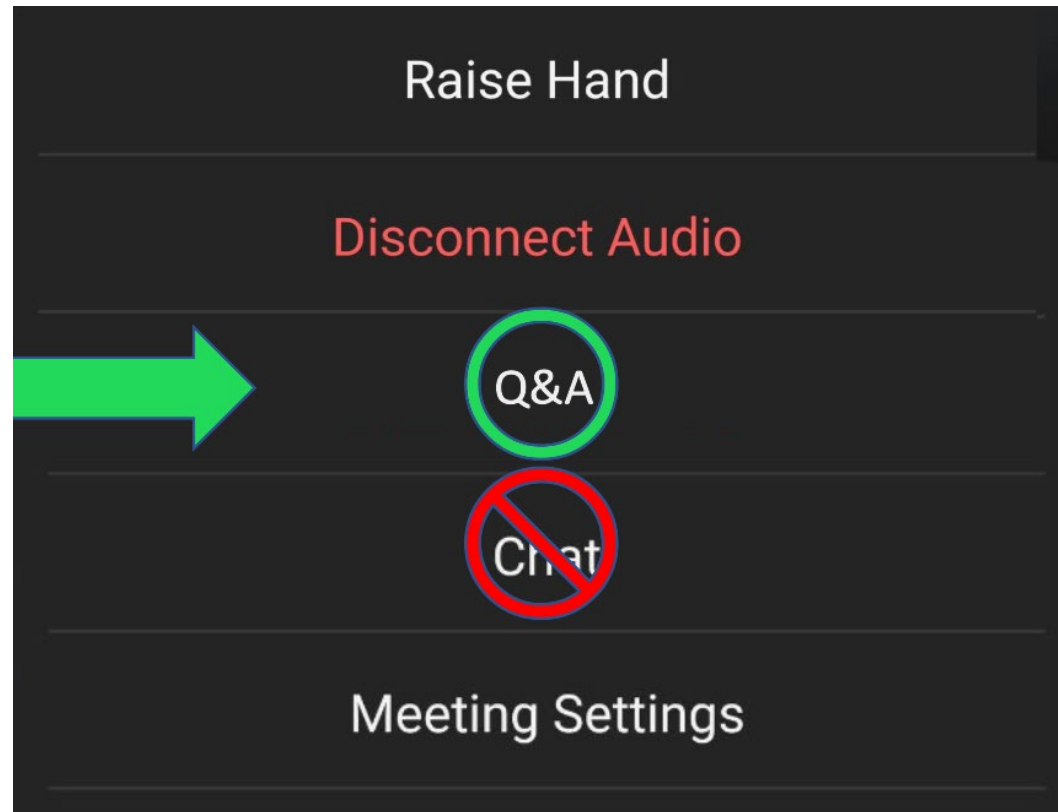
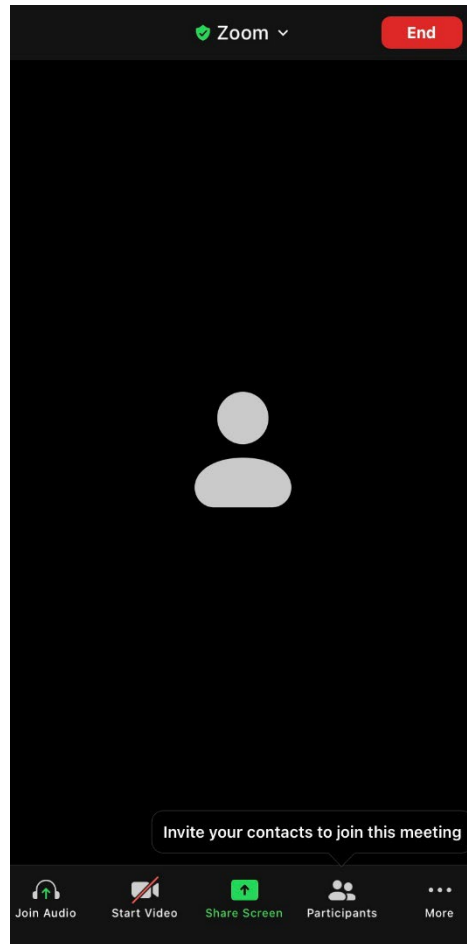


Technical Logistics



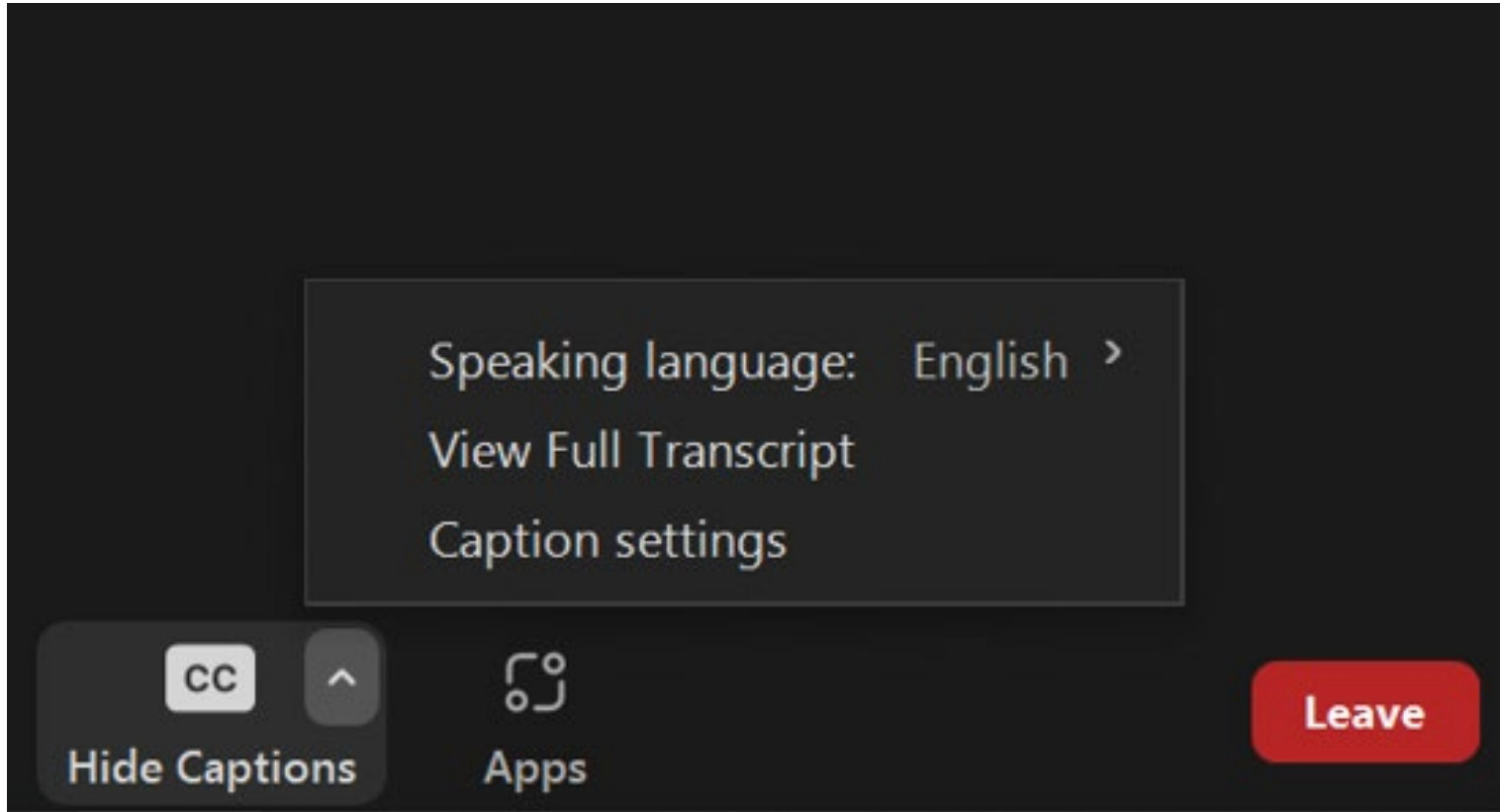
For Laptop/Desktop Users...

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Technical Logistics



Closed Captioning...



Presenters

Haley Percell, Chief Legal Officer, Interim Deputy Executive Director; Spencer Lewis, Director of Policy Services; Therese Holmstrom, Senior Assistant Legal Counsel





Agenda

- **Mandatory Training**
- **Definitions**
- **When do Public Meeting Laws Apply?**
- **Public Meeting Requirements and Prohibitions**
- **Executive Sessions**
- **Complaints**



Mandatory Training

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Mandatory Training

- 1) Required for governing bodies with total expenditures of \$1M or more;
- 2) Once during term of office;
- 3) Maintain record;
- 4) Truthfully certify completion, if requested.

OAR 199-050-0080(2)



Public Meeting Training

Presenters: Staff of the Oregon School Boards Association

Date: Live: 2/6/25 or Replay: _____

Location: Webinar

To attendee: take a picture of this slide and email it to yourself with the subject: “Public Meeting Training”





Oregon's Public Meetings Law

“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 [public meetings law] that decisions of governing bodies be arrived at openly.”

ORS 192.620



Definitions

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What is a Public Meeting?

“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.

ORS 192.610(7)(a)

Quorum + Public Body Business = Meeting



ORS 192.610(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.”



ORS 192.610(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.



ORS 192.610(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.



ORS 192.610(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.”



ORS 192.610(3)–
“Deliberation”
means...

Discussion or
communication that is
part of a decision-making
process.



OAR 199-050-0005 – “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.”



OAR 199-050-0005 – “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 a decision to be made;
- c) Identifying and assessing alternatives;
- d) Weighing information; and
- e) Making a decision.”



OAR 199-050-0005 – “Discussion” means...

“the consideration or debate of a matter.”



OAR 199-050-0005 – “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.”





OAR 199-050-0005 – “Quorum” means...

“the minimum number of members of a governing body required to legally transact business.”

ORS 332.055. “A majority of the members of the district school board shall constitute a quorum... The affirmative vote of the majority of members of the board is required to transact any business.”

ESDs: ORS 334.100; **Community Colleges:** ORS 341.283

Charter Schools: may vary, see bylaws and charter agreement.



OAR 199-050-0005 – “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.”



When do Public Meetings Laws Apply?



Public Meeting Law applies to the following types of meetings:

- Regular Meetings
- Special Meetings
- Emergency Meetings
- Executive Sessions, whether convened separately or as part of a regular, special, or emergency meeting; and
- 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). OAR 199-050-0015(2)



Public Meeting Laws apply to:

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.

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

OAR 199-050-0010





Public Meeting Laws DO NOT apply to:

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.

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 recommendation and is not required to pass the recommendations on unchanged to a public body.

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

OAR 199-050-0010



Not a “Meeting”

- **On-site inspections of any project or program**
 - **Attendance at any national, regional or state association to which the public body or the members belong**
- ORS 192.610(7)(b)

- **Social gatherings**
- Harris v. Nordquist*, 96 Or App 19 (1989)

Members constituting a quorum cannot decide on or deliberate towards any decision while attending such an event or gathering

Not a “Meeting”

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

- Purely factual or educational in nature and that convey no deliberation or decision on any matter that might reasonably come before the governing body;
- Not related to any matter that, at any time, could reasonably be foreseen to come before the governing body for deliberation and decision; or
- Nonsubstantive in nature, such as communication relating to scheduling, leaves of absence and other similar matters.

OAR 199-050-0015(3)(c)





What about committees/subcommittees?

- Committees, subcommittees, advisory committees, *etc.*, are subject to public meetings law, if they have:
 - Authority to make decisions for a public body; or
 - Authority to make recommendations to a public body.



Public Meeting Requirements and Prohibitions

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Open to the Public

- 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 except as otherwise provided in ORS 192.610 to 192.705. ORS 192.630(1)
- 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 except as otherwise provided by ORS 192.610 to 192.705. ORS 192.630(2)



Location

Meetings of the governing body of a public body must be held:

- Within the geographic boundaries of the area over which the public body has jurisdiction;
- At the public body's administrative headquarters;
- At “the nearest practical location;”
- Within “Indian country” in Oregon;
- In a location accessible to persons with disabilities.

ORS 192.630(4)



Location Exceptions

- Training sessions in which no deliberations towards a decision are involved;
- Joint meetings of governing bodies or a governing body and “Oregon Indian tribal officials”; and
- Actual emergency necessitating immediate action.
- ORS 192.630(4)



Non-discriminatory Location

A governing body may not hold a meeting at any place where discrimination on the basis of race, color, creed, sex, sexual orientation, gender identity, national origin, age or disability is practiced. ORS 192.630(3)



Disability Discrimination

- Cannot “meet in a place inaccessible to persons with disabilities;” or
- Cannot “fail to make a good faith effort to have an interpreter... provided at a regularly scheduled meeting” when requested at least 48 hours in advance.

ORS 192.630(5)



Remote Access

To extent reasonably possible, public bodies must make all meetings (excluding executive session) accessible remotely through technological means and provide opportunity for members of general public to remotely submit oral and written testimony if in-person oral and written testimony is allowed.

ORS 192.670(3)





Virtual Meetings

Meetings can be held entirely virtually (board members attend remotely and no physical location for members of the public to attend).





Virtual Meetings

Must “make available to the public at least one place where, or at least one electronic means by which, the public can listen to the communication at the time it occurs. A place provided may be a place where no member of the governing body of the public body is present.” ORS 192.670(2)





Notice

OAR 199-050-0040(3) requires a notice for meetings which are open to all members of the public to contain, at a minimum, the following information:

- Time, date and location of the meeting;
- The electronic link or telephone access information;
- A list of the principal subjects anticipated to be considered at the meeting (i.e., agenda). This requirements does not limit the ability to consider additional subjects;
- The name, telephone number, and email address of a person to contact to request an interpreter or other communication aids, or a notice that a sign language interpreter or other communication aids will be provided.



Methods for Notice to the Public

A governing body satisfies the public notice requirement by providing notice of its meetings to be displayed conspicuously on the governing body's **website** or on a publicly accessible website hosted by a third party and linked to the governing body's website.

If the governing body does not maintain a publicly accessible website: 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.

OAR 199-050-0040(2)(a)



Methods for Notice to Interested Persons

- A) Interested person lists, mailing lists, or other lists of person 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.

OAR 199-050-0040(2)(b)



Methods for Notice to Media

A governing body satisfies the media notice requirement 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.

OAR 199-050-0040(2)(c)

Special Requirement for ESDs

- ORS 276B.253(3)(k) requires “a copy of all notices of public meetings of the education service districts” be contained on the Oregon transparency website, “to the extent practicable and subject to laws relating to confidentiality, when at no additional cost, using existing data and existing resources ...and without reallocation of resources...”



Executive Session Notice

Same as regular meetings, plus:

- Must “identify the specific statutory citation and appropriate subsection and paragraph authorizing the executive session, as well as a general description of the statutory authorization.
- If part of a regular, special or emergency meeting, “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.”

OAR 199-050-0040(3)(d)





Timing of Notice

- Regular Meeting – as much notice as reasonably possible, but no less than 48 hours advance notice.;
- Special Meeting – at least 24 hours in advance;
- Emergency Meeting – such notice as is appropriate to the circumstances (ORS 192.640(3)). Attempt to contact media and other interested persons. Minutes must describe the emergency justifying less than 24 hours' notice and the reason why the meeting could not be delayed for 24 hours.

OAR 199-050-0040(4)





Public Meeting Minutes

- Must include “a true reflection of the matters discussed at the meeting and the views of the participants” and the following:
 - All members of the governing body present;
 - All motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition;
 - The results of all votes and the vote of each member by name (if 25 or fewer members);
 - The substance of any discussion on any matter; and
 - A reference to any document discussed at the meeting.

ORS 192.650(1)





Public Meeting Minutes

- All minutes or recordings must be available to the public “within reasonable time after the meeting.” ORS 192.650(1).
- School board meeting minutes are public records and need to be retained permanently. OAR 166-400-0010(9)



Executive Session Minutes

- Same content requirements (except ORS 332.061);
- Not required to disclose “if the disclosure of certain material is inconsistent with the purpose for which a meeting under ORS 192.660 is authorized to be held.”



Recordings instead of minutes

- Generally, audio or video recordings can be kept instead of minutes, but due to retention requirements, school boards must have a waiver from the Secretary of State Archives Division to not keep minutes in hard copy (transcripts may satisfy meeting requirements).
- See OAR 166-017-0045(2)-(3)





Recording Meetings

- School districts, ESDs, community college districts and public universities are required to post video recordings of non-executive session meetings within seven days of the meeting;
- Posted to the public body's website or social media site;
- If facilities lack broadband Internet access, audio recording is sufficient;
- SB 1502 (2024);, Effective January 1, 2025;
- Does not apply to school districts with less than 50 ADMr;
- Does not apply to executive session.





Public Comment

“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.”

OAR 199-050-0050(6)





Public Comment

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.
- (b) Allow written testimony, including electronic, if in-person testimony is permitted. May require it be submitted in advance.

OAR 199-050-0050(5)





Public Comment

“The presiding officer has inherent authority to keep order and to impose reasonable restrictions necessary for the efficient and orderly conduct of a meeting... the presiding officer may regulate the order and length of appearances and limit appearances to presentations of relevant point.”

OAR 199-050-0050(7)





Voting Requirements

- 1) All official actions by public vote;
- 2) Vote by name recorded;
- 3) Secret ballots prohibited;
- 4) If written ballot, must include name and vote, and be announced during the meeting.

OAR 199-050-0055



Serial Meetings Prohibited

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 on any matter that is within the jurisdiction of the governing body. OAR 199-050-0020(1)



Serial Meetings Prohibited

These prohibitions apply to any one of 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.

OAR 199-050-0020(2)



Executive Sessions

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Executive Session

ORS 192.610(1) Public Meeting Law “do[es] not prevent the governing body of a public body from holding an 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.”



Executive Session

OAR 199-040-0020(1) “Executive session may only be held when permitted by a specific provision of ORS 192.660 or other state law authorizing executive session. The topic(s) discussed in an executive session must be limited to those topics expressly permitted by the specific provision under which the executive session was convened. Members of governing bodies may not discuss topics in executive session other than those delineated in [the law], even if the additional topics are related to the issue concerning which the governing body convened the executive session.”



Executive Session

ORS 192.610(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.



Executive Sessions

- Can be held as part of a regular, special or emergency meeting;
- Can be held separate from any other agenda items;
- Public meeting requirements still apply:
 - Notice
 - Minutes
 - Location
 - Accessibility



Unique to Executive Sessions

- No final action or making any final decisions (can reach informal consensus, but no votes except ORS 332.061);
- News media allowed to attend except:
 - Labor negotiations (ORS 192.660(2)(d);
 - Student issues (ORS 332.061); or
 - Current litigation or litigation likely to be filed if the news media is a party to the litigation;
but should be instructed not to report;
- Board and any guests allowed to attend.



Who is news media?

- Attorney General Opinion 8291 (2016), page 14

“... we conclude that ‘representatives of the news media’ for purposes of ORS 192.660(4) includes news-gathering representatives who have a formal affiliation with an institutional news medium. A news media entity is institutional if it is formally organized for the purpose of gathering and disseminating news. As discussed below, however, the proliferation of technologies for disseminating information can make it difficult to identify which entities are institutional news media.”



Executive Sessions with Virtual Attendees

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 or other electronic means is conducted through a secure connection or method.

OAR 199-050-0050(4)





Announcing Executive Session

- Public announcement of statutory authorization must be made prior to the executive session;
- If only an executive session will be held, or if the executive session precedes an open meeting, the announcement must be included in the notice;
- If an executive session is held in conjunction with an open meeting, the announcement must be made during the portion of the meeting open to the public.
- OAR 199-040-0015



SAMPLE SCRIPT TO ANNOUNCE START OF EXECUTIVE SESSION

The [governing body] will now meet in executive session pursuant to ORS 192.660(____) [choose appropriate section(s) for *this* session], which allows the Commission to meet in executive session to ____[list activity(ies)]_____.

Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on or otherwise disclose any of the deliberations or anything said about these subjects during the executive session, except to state the general subject of the session as previously announced. No decision may be made in executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room.



Common Reasons for Executive Sessions

- To consider the employment of a public officer, employee, staff member or individual agent. (ORS 192.660(2)(a))*
- 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. (ORS 192.660(2)(b))**/**
- To conduct deliberations with persons designated by the governing body to carry on labor negotiations. (ORS 192.660(2)(d))
- To conduct deliberations with persons designated by the governing body to negotiate real property transactions. (ORS 192.660(2)(e))



Common Reasons for Executive Sessions

- To consider information or records that are exempt by law from public inspection. (ORS 192.660(2)(f))
- 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. (ORS 192.660(2)(h))
- 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. (ORS 192.660(2)(i))**. Cannot use this provision to conduct “a general evaluation of an agency goal, objective or operation or any directive to personnel concerning agency goals, objectives, operations or programs.
- To consider matters relating to school safety or a plan that responds to safety threats made toward a school. (ORS 192.660(2)(k))

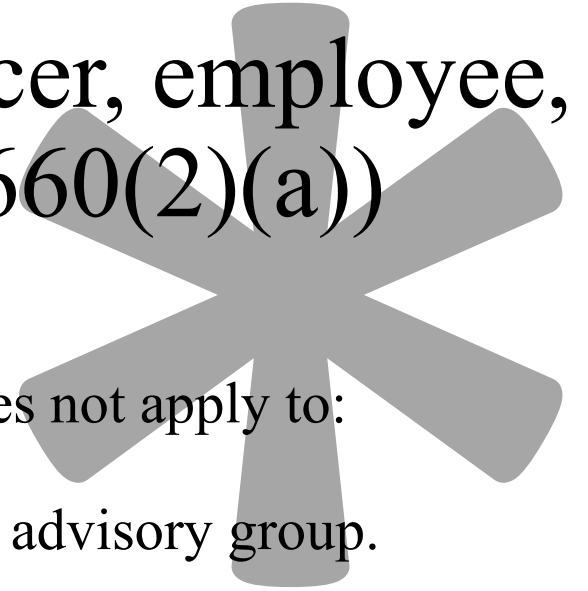


Common Reasons for Executive Sessions

- 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. (ORS 192.660(2)(o))
- To consider matters relating to cyber security infrastructure and responses to cyber security threats. (ORS 192.660(2)(p))
- To review the expulsion of a minor student from a public elementary or secondary school. (ORS 332.061(1)(a))
- To review matters pertaining to or examination of the confidential records of a student. (ORS 332.061(1)(b))



***To consider the employment of a public officer, employee, staff member or individual agent. (ORS 192.660(2)(a))**



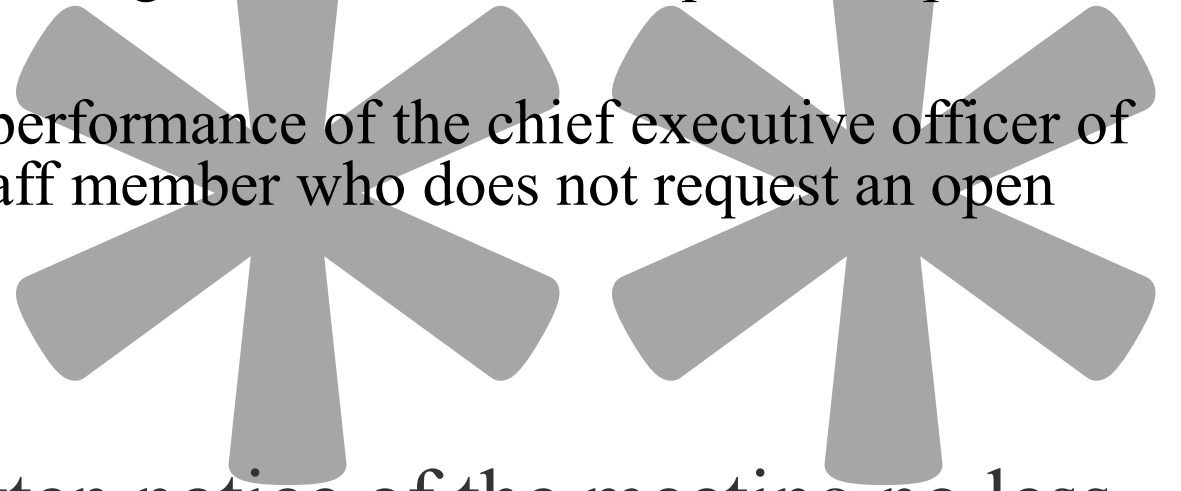
ORS 192.660(7) The exception granted by subsection (2)(a) of this section does not apply to:

- 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.



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. (ORS 192.660(2)(b))**/**

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. (ORS 192.660(2)(i))**



“the public official must receive written notice of the meeting no less than one business day or 24 hours, whichever is greater, in advance of the meeting.” Must include:

- 1) Name of governing body
- 2) Time, date and location of the meeting;
- 3) Purpose of the executive session (citation); and
- 4) Information on how to request open hearing.

OAR 199-040-0030



To consider the employment of a public officer, employee, staff member or individual agent.
(ORS 192.660(2)(a)) *

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. (ORS 192.660(2)(b)) **/**

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. (ORS 192.660(2)(i)) **

“Compensation, including salaries and benefits, must not be discussed or negotiated during an executive session under ORS 192.660(2)(a), (b) or (i).”

OAR 199-040-0020



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. (ORS 192.660(2)(b))**/**

Applicability to complaints against board members depends on the circumstances.

OGEC Staff Opinion 22-106S



Labor Negotiations and Executive Sessions

- To conduct deliberations with persons designated by the governing body to carry on labor negotiations. (ORS 192.660(2)(d))
- “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.” ORS 192.660(3)



OGEC Opinions

- Any person may request an advisory opinion or written or oral staff advice for actual or hypothetical situations involving executive session. ORS 192.660(10).
- OGEC can also provide guidance, advice and opinions on other matters relating to Public Meetings Law.



OGEC Authority



- Civil penalty of up to \$1,000 for each board member for violation of public meetings law (ORS 244.350(2)(a))
 - No civil penalty if acting at the advice of legal counsel, but letter of education is possible (ORS 244.350(2)(b))
- Lawsuits against the district
- Insurance policies generally do not provide insurance coverage to entities and individuals who intentionally violate the law



Grievances and Complaints

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Grievance: filed with the governing body in accordance with ORS 192.705 and OAR 199-050-0070.

Complaint: filed with OGEC after the grievance procedure in accordance with ORS 192.685 and OAR 199-050-0075.



Public Meetings Violations

An individual who believes a governing body has violated public meetings laws has two options:

1. Grievance to public body followed by complaint to OGEC (ORS 192.685); and/or
2. Lawsuit to compel compliance with Public Meetings Law (ORS 192.680(2)).



Acceptance of Grievances

The public body must accept grievances filed by:

1. In-person delivery during regular business hours;
2. First-class mail; and
3. Email.

The public body may accept grievances by other means.



Website Must Include

1. Person and contact information to whom a grievance may be submitted; and
2. Hours during which in-person grievances will be accepted.

Absent these, a grievance can be filed with the chief administrative officer or to the chair of the public body.

If no website, must publish notice in the same manner as meeting notices.

OAR 199-050-0070(3)



Step 1: Submitting the alleged violation to the public body.

If a person believes a governing body has done something to violate Public Meetings Law, they have to first file a written grievance. There are three key things to be aware of:



It must be a written grievance.



It must be filed within 30 days.



It must be filed with the public body.

Must include:

1. Name of governing body;
2. Date of the violation;
3. Specific facts and circumstances;
4. Date of the grievance; and
5. Name and contact information of person filing the grievance.

OAR 199-050-0070(2)



21
DAYS

Step 2: Responding to the alleged violation.

Response 1



Response 2



Response 3



Deny

Deny the facts.

Provide the public body's version of events, and that no violation occurred.

Admit / Deny

Admit the facts.

Explain why the facts are not a violation of PML.

Admit / Admit

Admit the facts.

Admit the violation, and explain how the public body will fix the violation.

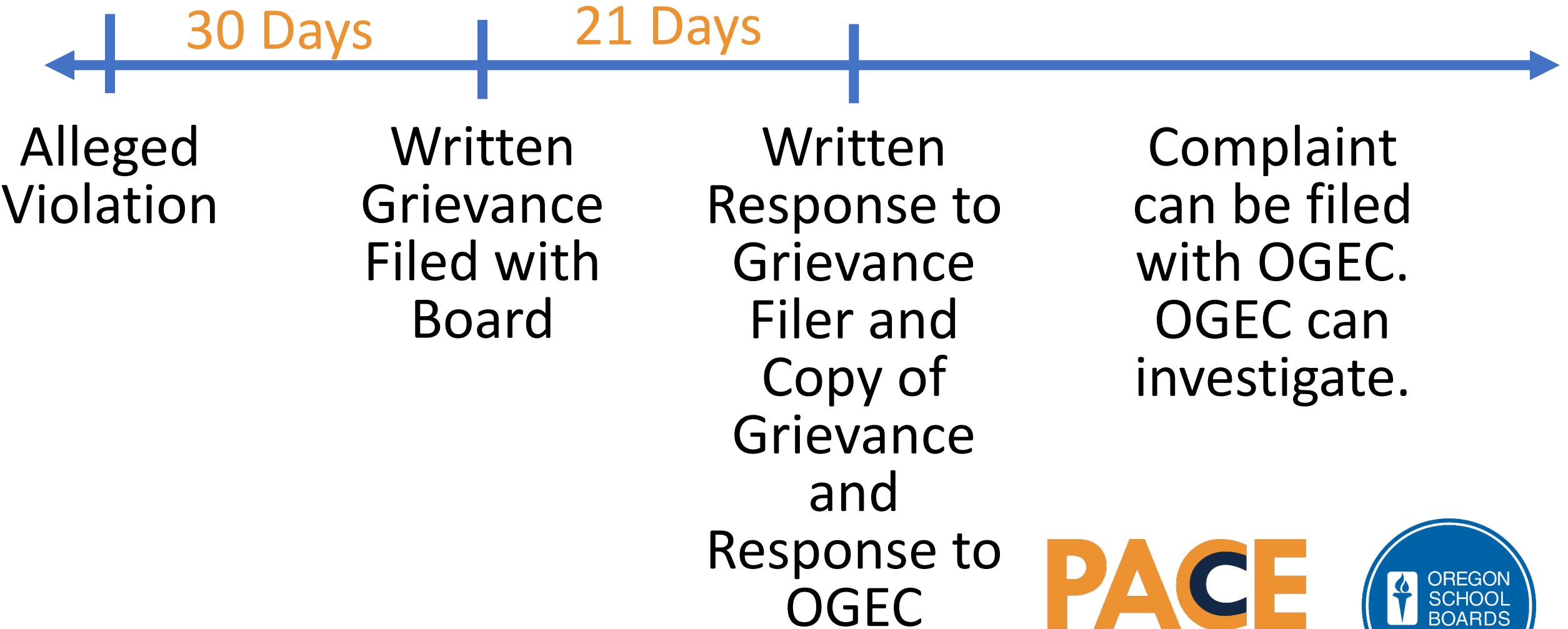
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Admit/Admit

1. Rescind decision; OR
2. Acknowledge in a public meeting (within 45 days):
 - a. Violation;
 - b. Good cause exists for not rescinding; AND
 - c. Practices to be modified to avoid future violations.





Complainant Responsibilities (ORS 192.685(3))

A complainant is required to submit to OGEC:

- Documentation of complainant's actions taken under ORS 192.705;
- The public body's response.

OGEC will dismiss any complaint filed that does not satisfy the requirements in ORS 192.685(2).



Complaints Against All Members of the Governing Body

OAR 199-050-0075(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.



Consolidation

OAR 199-050-0075(3):

When a complaint involves the members of a governing body, OGEC will consolidate at the preliminary hearing and investigative phase unless a governing body member objects.

Individual determinations will be made for each member.



Procedural Dismissal, OAR 199-050-0075(4)

A complaint that is dismissed for failure to comply with requirements is a procedural dismissal only. The dismissal does not prevent OGEC from taking up the matter on its own motion if it has authority to do so, or considering a new complaint based upon the same conduct (if all rules are met).



OGEC Authority (ORS 244.350)

- If the public body does not timely respond to complainant's grievance, or if complainant is not satisfied with public body's written response, complainant may file complaint with OGEC.
- OGEC may investigate public meetings violation complaints for executive sessions.
- If OGEC finds that governing body violated public meetings law, can impose civil penalties "not to exceed \$1,000..."
- Civil penalty is a personal liability of each member of the governing body on whom the penalty is imposed; cannot be paid by the public body. ORS 244.040.



“If at any time [OGEC] has reason to believe that there has been a violation of ORS 192.660, [OGEC] may proceed ...on its own motion as if the commission had received a complaint.”

ORS 192.685(1)(b)





Public Meetings Lawsuit

Court can order:

- Governing body to “redo” the decision at issue;
- Appropriate equitable relief; and
- Payment of plaintiff’s reasonable attorney fees.

If court determines a governing body’s violation was the result of intentional disregard of the law or willful misconduct by a quorum:

- Court can void the decision (despite any attempt to reinstate it), unless other equitable relief is available (ORS 192.680(3)); and
- any members of the body who engaged in willful misconduct will be *personally* liable to the governing body for any attorney fees it has to pay to the plaintiff (ORS 192.680(4)).

Must be filed within 60 days following the date that the decision becomes public record. ORS 192.680(6).

Questions?

- General Legal (PACE):
pacelegal@osba.org
- OSBA Policy: slewis@osba.org
- Oregon Government Ethics
Commission (OGEC):
(503) 378-5105
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