

ALERT

IMPORTANT INFORMATION FROM OCCA

OREGON PUBLIC MEETINGS LAW ALERT – ACTION REQUIRED

Written Grievance Process for Board of Education Violations of Public Meetings Law – HB 2805

Effective Date: September 24, 2023; OARs Adopted October 1, 2024

Affected Entities: All Oregon public bodies and governing bodies, including community colleges and boards of education

All elected board members should be aware of these rules and the grievance process public bodies must have in place to address allegations that the board violated public meetings law. Board members can be held personally liable for violations of public meetings law and may be assessed civil penalties.

During the 2023 Legislative Session, the Oregon Legislature passed HB 2805. This bill included several changes to Oregon public meetings law and provided new authority to the Oregon Government Ethics Commission (OGEC) to enforce violations of public meetings law. Prior to the passage of this bill, OGEC only had authority to investigate and enforce violations of the executive session provisions of public meetings law.

The new law allows any person to submit a written grievance within 30 days of the meeting at which the alleged violation occurred. These must be submitted first to the public body for response prior to the filing of a complaint with OGEC. The public body must allow written grievances to be submitted in-person, by first class mail, or by email, and has 21 days from the date of receipt to respond to the allegation. When the public body responds to the allegation, a copy of the response and the grievance must be submitted to OGEC.

Oregon Administrative Rules adopted by OGEC on October 1, 2024, clarify the process public bodies and complainants must follow. Written grievances must include the following information: 1) the governing body that allegedly violated the law, 2) the date of the alleged violation, 3) the specific facts and circumstances of the alleged violation, 4) the date of the grievance, and 5) the name and contact information of the person submitting the grievance. Anonymous grievances are not permitted.

If the complainant disagrees with the public body's response denying a violation or failing to cure an admitted violation, or they do not receive a response, they may file a complaint with OGEC. If the complaint satisfies OGEC's review requirements, OGEC will construe the complaint as a complaint against all members of the governing body and cases will be opened for each member. The agency has the authority to pursue their full administrative review process to determine if a violation has occurred and assess civil penalties if warranted. OGEC has the authority to proceed on their own motion as well.

Implementation Action Required

Website Notice: Community colleges are required to post on their websites the name of the person and the contact information to whom written grievances may be submitted. In addition, this notice must include the regular business hours of the public body during which in-person written grievances may be filed. This information may be posted on the board's webpage.

Response to Grievance: Within 21 days of receipt the college must provide a written response to the person who submitted the grievance. The response must acknowledge receipt of the grievance, and do **one** of the following:

- 1) Deny the facts and circumstances alleged in the grievance and state why they did not violate public meetings law;
- 2) Admit the facts and circumstances outlined in the grievance, but deny that they violated public meetings law; or
- 3) Admit the conduct violated public meetings law and set forth the steps the governing body will take to remedy the violation. These steps might include rescinding the original decision made in violation of the law, or acknowledging in a properly noticed public meeting held within 45 days of the original decision that the original decision violated the law, there is good cause to uphold the decision, and the board's practices have been modified to ensure future violations will not occur.

A copy of the college's response to the complainant must be sent to OGEC with the original written grievance.

For more information about OGEC's public meetings law complaint process and new public body reporting duties click [here](#).

Please contact Karen Smith, OCCA Senior Policy Advisor & General Counsel at ksmith@occa17.com if you have questions.