

STATE BOARD OF EDUCATION

POLICY & PROCEDURE MANUAL

Adopted August 2007
Revised ~~August~~ June 2015

**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

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SECTION A

POLICIES
REQUIRED BY
STATUTE, RULE, or
DIRECTIVE

**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

**Policy #1
First Adopted: pre-1997
Revised 8/2007; 8/2009; 6/2014**

STATE BOARD OF EDUCATION MEMBERSHIP

A. Number & Terms of Office

The State Board of Education consists of the State Treasurer or the Treasurer's designee; the Secretary of State or Secretary's designee; and seven members, appointed by the Governor for a term of four years beginning July 1 of the year of appointment, subject to confirmation by the Senate. No person may be appointed to serve consecutively more than two full terms as a board member. According to the Office of the Governor, a member who completes another's term is still eligible to serve two additional four-year terms; a member whose final term has expired may remain on the board until replaced. The State Treasurer and the Secretary of State, or their designees are nonvoting, ex officio members of the board (ORS 171.562 and 171.565; ORS 326.021).

B. Eligibility for Board Membership

In making appointments to the State Board of Education, the Governor selects from residents of Oregon one member from each congressional district and one from the state at large, ~~and one member of the Oregon Education Investment Board~~. No member shall be engaged in teaching or participate in the administration or operation of any school (ORS 326.021).

C. Vacancies

The Governor fills vacancies by appointment, and those nominations must be confirmed by the Senate. Appointments made to fill vacancies occurring prior to the expiration of a term are for the remainder of the unexpired term. When a vacancy occurs in an appointment made from a congressional district, the successor shall be appointed from the congressional district for which the vacancy exists (ORS 326.031).

D. Removal from Office

The Governor may remove members of the State Board of Education for cause at any time after notice and public hearing (ORS 326.021).

The secretary or clerk of the state board reports to the Governor the names of all members who fail to attend any meeting of the board or commission (ORS 182.020). Any member of a state board or commission appointed by the Governor who fails to attend two consecutive meetings of the board or commission, whether regular, adjourned or special, may forfeit the office unless the member is prevented from attending by the serious illness of a member or the family of the member or for any other cause that in the judgment of the Governor constitutes a valid reason for failing to attend (ORS 182.010).

E. Chair

The board shall elect one of its members to serve as chairperson of the board for one year commencing July 1. If the office of chairperson of the board is permanently vacated for any reason, the board may elect a new chairperson to serve until the June 30 next following (ORS 326.041).

END OF POLICY

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**Policy #2
First Adopted: pre-1997
Revised 2007; 6/2014**

BOARD AUTHORITY/RESPONSIBILITIES¹

A. Policy Setting Authority

The State Board of Education is responsible for adopting rules for the general governance of public kindergartens and public elementary and secondary schools. (ORS 326.051) In promulgating policies, the board shall consider the goals of a modern education, the requirements of a sound, comprehensive curriculum best suited to the needs of the students and the public and any other factors consistent with the maintenance of a modern and efficient elementary and secondary school system. (ORS 326.011)

B. Rule-Making Authority

The State Board of Education is responsible for adopting Oregon Administrative Rules for the governance of K-12 education. Adoption of such rules shall comply with state and federal law (326.051).

C. Review/Appeal Authority

As provided by law, the board acts as decision making body in some situations where a party makes an appeal to the board or asks for review. Examples of such actions include the following:

- Hearing district appeals on district boundary board decisions concerning boundary changes (ORS 330.090).
- Reviewing appeals from charter schools denied district sponsorship (ORS 338.075).

D. Executive/Administrative Authority

1. K-12 education

The Oregon Department of Education functions under the direction and control of the State Board of Education. All administrative functions of the board relating to supervision, management and control of schools are exercised through the Oregon Department of Education under the Superintendent of Public Instruction (ORS 326.111). However, state law does specifically assign the board some administrative duties. Among those administrative duties is accepting money or property donated for the use or benefit of schools and community colleges (ORS 326.051) and applying for federal funds and entering into contracts for the receipt of federal funds (ORS 326.051).

E. Fiscal Responsibility

The State Board of Education approves the budget of the Oregon Department of Education. (An interpretation of ORS 326.111)

As a state agency, the State Board of Education is subject to the provisions of the Oregon Accounting Manual (OAM 01.05.00.PO, section .105).

As a state agency, the State Board of Education is subject to the federal Cash Management Improvement Act that requires that state agencies minimize the time between the deposit of federal funds in state agency accounts and the disbursement of funds for program purposes (OAM 30.30.00.PO section .101).

F. Advisory Responsibility

The Teacher Standards and Practices Commission shall notify the State Board of Education of proposed rules and shall solicit its advice before adoption. Within 60 days after receiving notice from the commission of adoption of a rule, the State Board of Education on its motion or upon request shall review the rule to determine if the rule serves the public

¹ For a complete list of statutory responsibilities, see Appendix C.

interest. Where the board finds pursuant to its review that the rule reviewed is not in the public interest, the board shall request the commission to set aside or amend the rule (ORS 342.167).

After considering recommendations of the State Board of Education, the Teacher Standards and Practices Commission shall establish by rule standards for approval of teacher education institutions and teacher education programs (ORS 342.147).

G. Board Management Responsibility²

Board members will act in accordance with their role as a public representative of the agency.

1. Working with Other Boards

The board will monitor and coordinate with those other boards whose responsibilities and interests are closely related or overlap.

2. Effective Practices

The board will adopt practices that support effective meetings, such as the use of a consent calendar, subcommittees, public comment opportunities, and discussion. Members will identify and attend appropriate member training sessions, conduct periodic self-evaluations and audits of board practices, and periodic evaluations of board staff.

END OF POLICY

² Department of Administrative Services and Legislative Fiscal Office. *Budget Note Report on Performance Measures for Boards and Commissions*. Prepared for July 6, 2006 Joint Legislative Audit Committee.

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**Policy #3
First Adopted: pre-1997
Revised 2007**

OREGON DEPARTMENT OF EDUCATION (ORS 326.111)

The Department of Education is created and shall function under the direction and control of the State Board of Education with the Superintendent of Public Instruction serving as an administrative officer for public school matters.

The Department of Education shall consist of agencies and officers that are added by law to the Department of Education and administrative organizations and staffs required for the performance of the department's functions.

All administrative functions of the State Board of Education shall be exercised through the Department of Education, and the department shall exercise all administrative functions of the state relating to supervision, management and control of schools not conferred by law on some other agency.

END OF POLICY

**STATE BOARD OF EDUCATION
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**Policy #4
First Adopted: pre-1997
Revised 2007; 6/2014**

SUPERINTENDENT OF PUBLIC INSTRUCTION

A. The Superintendent of Public Instruction
The Governor is the Superintendent of Public Instruction. (ORS 326.300)

B. Authority

The Superintendent of Public Instruction:

1. Acts as administrative officer of the State Board of Education. (ORS 326. 310)
2. Acts as executive head of the Department of Education. (ORS 326. 310)
3. Assists all district school boards and education service district boards in answering questions concerning the proper administration of the school laws. (ORS 326. 310)
4. Obtains and compiles statistical information relative to the condition and operation of the public schools. (ORS 326. 310)
5. Appoints personnel as needed. (ORS 326. 310)
6. Administers and supervise adult education programs in elementary and secondary schools. (ORS 326. 310)
7. Performs other functions necessary to carry out the superintendent's duties. (ORS 326. 310)
8. Compiles rules and laws for distribution to school districts (ORS 326.320).
9. Prepares biennial budget in compliance with Department of Administrative Services requirements (OAM 107-02-010).

END OF POLICY

**STATE BOARD OF EDUCATION
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**Policy #5
First Adopted: 2014**

DEPUTY SUPERINTENDENT OF PUBLIC INSTRUCTION

A. Deputy Superintendent of Public Instruction

The Governor shall appoint a Deputy Superintendent of Public Instruction. The appointment of the deputy superintendent shall be subject to confirmation by the Senate. (ORS 326.300)

B. Authority

The deputy superintendent shall perform any act or duty of the office of Superintendent of Public Instruction that is designated by the Governor and shall serve under the direction and control of the Chief Education Officer for matters related to the design and organization of the state's education system. (ORS 326.300)

C. Removal

The deputy superintendent may be removed from office by the Governor following consultation with the State Board of Education. (ORS 326.300)

END OF POLICY

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**Policy #6
First Adopted: pre-1997
Revised 2007; 6/2014**

MEETINGS

A. Regular Meetings

The State Board of Education shall meet at least six times each year on dates determined by the board, and at such other times as may be designated by the chairperson agreeable to a majority of the board, or at the call of a majority of the board members (ORS 326.041).

B. Requirements of Meetings

1. Public Meeting Law Compliance

The State Board of Education shall comply with the provisions of ORS chapter 192, *Records, Public Reports, Public Meetings*.

- All meetings of the State Board of Education shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by law. (ORS 192.630)
- Any subcommittees, task forces, or work groups that are charged with making recommendations as a whole to the board shall comply with the provisions of chapter 192.³

2. Time and Place

Meetings of the board shall be held within the geographic boundaries over which the public body has jurisdiction, or at the administrative headquarters of the public body or at the other nearest practical location. The State Board of Education may not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age, national origin or disability is practiced. It is discrimination on the basis of disability for the State Board of Education to meet in a place inaccessible to the disabled, or, upon request of a deaf or hard-of-hearing person, to fail to make a good faith effort to have an interpreter for deaf or hard-of-hearing persons provided at a regularly scheduled meeting (ORS 192.630).

3. Notice

The members of the board will be given at least 10 days' notice, in writing, of the date and place of each regular or special meeting (ORS 182.020).

The board shall give public notice reasonably calculated to give actual notice to interested persons including news media who have requested notice, of the time and place for holding of its meetings, including its committees and work groups. The notice shall also include a list of the principal subjects anticipated to be considered at the meeting (ORS 192.640).

4. Quorum

For a motion to be adopted, at least a majority of the State Board of Education must vote for it. A quorum of the seven-member State Board of Education is four members (ORS 174.130; *Opinions of the Attorney General*, vol. 41, p. 28, 1980).

A quorum of the State Board of Education may not meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as otherwise provided by law (ORS 192.640(2)).

5. Minutes and Other Written Records

The board shall provide for the sound, video, or digital recording or the taking of written minutes of all its meetings. All minutes shall be available to the public within a reasonable time after the meeting and shall include at least the following information:

- All members of the board present;

³ A body that has authority to make recommendations to a public body on policy or administration is a governing body (ORS 192.610(3); *Attorney General's Public Records and Meetings Manual*, 2005, p. 110-111. Subcommittees, task forces, and work groups that are charged with making recommendations as a whole, to the board, are subject to the public meetings law.

Comment [NJ1]: <http://www.oregonlaws.org/ors/192.630>

- 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;
- The substance of any discussion on any matter; and
- Subject to public records law, a reference to any document discussed at the meeting. (ORS 192.650)

Minutes and other reports presented to the board shall be available to the public and posted to the board's website (ORS 192.243).

5. Archiving Records

The State Board of Education shall follow the retention schedule suggested by the Secretary of State's Archivist (ORS 192.105).

C. EXECUTIVE SESSIONS

1. Meetings ~~(ORS 192.660)~~

The board may schedule an "executive session," closed to the public, under certain circumstances allowed by law, including the following:

- To consider the employment of a public officer, employee, staff member or individual agent.
- 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.
- To review and evaluate the employment-related performances. The State Board of Education may not use an executive session for purposes of evaluating a 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 ~~(ORS 192.660)~~.
- To conduct deliberations with persons designated by the governing body to negotiate real property transactions
- To consider information or records that are exempt by law from public inspection

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

Representatives of the news media shall be allowed to attend executive sessions, but the board may require that specified information be undisclosed. When the board convenes an executive session for the purposes of conferring with counsel on current litigation or litigation likely to be filed, the board 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 (ORS 192.660).

If an executive session is to be held, the meeting notice shall be given to the members of the board, to the general public and to news media which have requested notice, stating the specific provision of law authorizing the executive session (ORS 192.640(2), Attorney General's Public Records and Meetings Manual, 2005, p.129, 143.).

A record of any executive session may be written minutes or be kept in the form of a sound or video tape or digital recording, which need not be transcribed unless otherwise provided by law. If the disclosure of certain material is inconsistent with the purpose for which a meeting under ORS 192.660 is authorized to be held, that material may be excluded from disclosure. However, excluded materials are authorized to be examined privately by a court in any legal action and the court shall determine their admissibility (ORS 192.650).

2. Penalties

Any decision made in violation of the public meetings law is voidable. A decision shall not be voided if the State Board of Education reinstates the decision while in compliance with public meetings law. A decision that is reinstated is effective from the date of its initial adoption. (ORS 192.680).

The Government Standards and Practices Commission may impose civil penalties not to exceed \$1,000 for violating any provision of law pertaining to executive sessions. However, a civil penalty may not be imposed under this subsection if the violation occurred as a result of the State Board of Education acting upon the advice of the public body's counsel (ORS 244.350).

D. SPECIAL MEETINGS

No special meeting shall be held without at least 24 hours' notice to the members of the board, the news media which have requested notice and the general public. In case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances, but the minutes for such a meeting shall describe the emergency justifying less than 24 hours' notice (ORS 192.640).

END OF POLICY

**STATE BOARD OF EDUCATION
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**Policy #7
First Adopted: pre-1997
Revised 2007**

COMPENSATION AND REIMBURSEMENT

A. Compensation

Board members (other than members who are employed in full-time public service) are authorized to receive compensation for time spent in performance of official duties. Members shall receive a payment of \$30 for each day or portion thereof during which the member is actually engaged in the performance of official duties. Compensation is subject to federal and state income tax withholding, social security and Medicare taxes, Workers' Compensation insurance, and Workers' Benefit Fund assessment (ORS 292.495; Dept. of Administrative Services *Oregon Statewide Payroll Services Reference Manual, Volunteers, Boards and Commissions*).

B. Reimbursement

Board members, including those employed in full-time public service, may receive actual and necessary travel or other expenses actually incurred in the performance of their official duties within the limits provided by law or by the Oregon Department of Administrative Services under ORS 292.210 to 292.250 (ORS 292.495).

As a state agency, the State Board of Education is subject to the provisions of the Oregon Accounting Manual (OAM 01.05.00.PO, section .105).

Board members are directed to use state per diem meal and lodging reimbursement allowances. Under this option, receipts are not required for meal expenses (Oregon Accounting Manual 10.40.00.PO, section .108). Receipts for lodging are required. Receipts for meals are required when the expenses exceed the state per diem or if gratuities are claimed. Gratuities of 15% actual meal costs are permissible if reasonable and necessary for the conduct of state business and need to be documented on the receipt (Oregon Accounting Manual 10.40.00.PO, section .150).

Reimbursement for expenses incurred in a privately owned motor vehicle shall be at the rate established and regulated by the Oregon Department of Administrative Services. Reimbursement shall be paid only for distances actually traveled and trips made in the performance of official or state related duties. The rate is deemed to include gasoline, oil, repair parts, depreciation, taxes, insurance and maintenance and upkeep of every kind and nature (ORS 292.250).

C. Out-Of-State Travel (ORS 292.230)

It is the policy of the state that all out-of-state travel by state agency personnel shall be allowed only when the travel is essential to the normal discharge of the agency's responsibilities and shall be conducted in the most efficient and cost-effective manner resulting in the best value to the state.

- All out-of-state travel must be for official state business.
- Use of out-of-state travel must be related to the board's scope of responsibilities.
- Travel awards earned while conducting state business shall be used to reduce the costs of state travel. The use of travel awards obtained while conducting state business for personal travel constitutes personal gain from state employment and violates ORS 244.040.

END OF POLICY

**STATE BOARD OF EDUCATION
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**Policy #8
First Adopted: pre-1997
Revised 2007; 8/2009**

MEMBER ETHICS

A. CODE OF ETHICS

Board members are public officials under state law. Public office is a public trust, and as one safeguard of that trust, the people require all public officials to adhere to the code of ethics set forth in ORS 244.040. Board members should not make private promises that are binding upon the duties of a board member, because a board member has no private word that can be binding on public duty (ORS 244.010-.020). Members should familiarize themselves with Oregon's ethics laws; this policy highlights some key features but is not comprehensive. In the event of any conflict between this policy and Oregon ethics laws, the law supersedes the policy.

B. FINANCIAL GAIN

No board member may use, or attempt to use, their official position or office to obtain financial gain or avoidance of financial detriment for the board member, a relative or household member of the board member, or any business with which the board member or a relative, or member of the household of the board member is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the member's holding of the official position. Permitted is official salary, honoraria, (except as prohibited below), reimbursement of expenses or an unsolicited award for professional achievement for the board member, the board member's relative, or for a household member of the board member (ORS 244.040).

A board member may not solicit or receive, whether directly or indirectly, honoraria for himself or for any member of the member's household with a value of \$50 or more if the honoraria is solicited or received in connection with the official duties of the board member. Honoraria does not include a certificate, plaque, commemorative token or other item with a value of \$50 or less, or honoraria for services performed in relation to the private profession, occupation, avocation or expertise of the board member. Any person that provides a board member or household member of the board member with an honorarium as allowed under ORS 244.042 with a value of \$15 shall notify the member in writing of the value of the item within ten days after the event for which the item was received (ORS 244.042, ORS 244.100).

No board member may solicit or receive, either directly or indirectly, and no person shall offer or give to any board member any pledge or promise of future employment, based on any understanding that such board member's vote, official action or judgment would be influenced by such a pledge or promise (ORS 244.040).

No board member or former board member may attempt to further or further the personal gain of the board member through the use of confidential information gained in the course of or by reason of the official position or activities of the board member in any way (ORS 244.040).

No board member may attempt to represent or represent a client for a fee before the State Board of Education. This subsection does not apply to the person's employer, business partner or other associate (ORS 244.040).

C. GIFTS

No person shall offer during any calendar year any gifts with an aggregate value in excess of \$50 from any single source to any board member or their relative or household member, if the person offering the gift could reasonably be known to have a legislative or administrative interest in the Oregon Department of Education ~~or Department of Community Colleges and Workforce Development~~ (ORS 244.025).

No board member, their relative, or household member shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of \$50 from any single source who could reasonably be known to have a legislative or administrative interest in the board member. "Legislative or administrative interest" means

Comment [NJ2]: CCDW is now under the HECC

an economic interest, distinct from that of the general public in any matter subject to the decision or vote of the board member acting in the board member's capacity as a public official. (ORS 244.020, ORS 244.025).

Gifts do not mean:

- (a) Gifts from relatives or members of the board member's household.
- (b) Unsolicited tokens of appreciation with a resale value of less than \$25.
- (c) Informational material, publications, or subscriptions related to the performance of the board member's public duties.
- (d) Admission/cost of food consumed by a board member, or a member of the household when accompanying the board member at a reception, meal, or meeting held by an organization when the board member represents state government.
- (e) Reasonable expenses paid by any local, state, or federal government; a state or nationally recognized Native American tribe; a membership organization to which a public body pays membership dues; or a not-for-profit corporation for attendance at a convention, fact-finding mission or trip, or other meeting if the public official is scheduled to deliver a speech, make a presentation, participate on a panel or represent state government.
- (f) Reasonable food, travel, or lodging expenses provided to a public official, or a relative/household member/staff member of the board member accompanying the board member when the board member is representing state government.
- (g) Food or beverage consumed while the board member is acting in an official capacity.
- (h) Food or beverage consumed by a board member at a reception where the food or beverage is provided as an incidental part of the reception and no cost is placed on the food or beverage.
- (i) Entertainment provided to a board member/relative/member of the household that is incidental to the main purpose of another event.
- (j) Entertainment provided to a board member/relative/member of the household where the board member is acting in an official capacity while representing state government.
- (k) Anything of economic value that is part of the usual and customary practice of the person's private business, employment, or volunteer activities and bears no relationship to the board member's official position.

Any organization, unit of government, tribe, or corporation that provides a board member with expenses with an aggregate value exceeding \$50 for an event (convention, trip, certain meetings) shall notify the board member in writing of the amount of the expense. The notice shall be sent to the board member within 10 days from the date such expenses are incurred (ORS 244.100).

D. CONFLICTS OF INTEREST

An "actual conflict of interest," means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated (ORS 244.020).

A potential conflict of interest means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:

- (a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.
- (b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.
- (c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.

<p>When confronted with a potential conflict of interest, a board member shall:</p> <ul style="list-style-type: none"> • Announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official. 	<p>When confronted with an actual conflict of interest, a board member shall:</p> <ul style="list-style-type: none"> • Announce publicly the nature of the actual conflict. • Refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue, unless the member's vote is necessary to meet the quorum requirement. • Notify in writing the Governor of the nature of the conflict and request that the Governor dispose of the matter giving rise to the conflict. Upon receipt of the request, the Governor shall designate, within a reasonable time, an alternate to dispose of the matter or shall direct the official to dispose of the matter in a manner specified by the Governor (ORS 244.120).
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Conflicts and potential conflicts and their disposition shall be recorded in the minutes and may be reported to the Oregon Government Ethics Commission at the discretion of the board (ORS 244.130).

The Oregon Government Ethics Commission may impose civil penalties not to exceed \$1000 for violating any provision of this chapter or any resolution adopted under ORS chapter 244 (ORS 244.350). Board members who have financially benefited by a conflict of interest may be required to forfeit twice the amount of the gain realized (ORS 244.360).

E. BRIBERY

A person commits the crime of bribe-giving if the person offers, confers or agrees to confer any pecuniary benefit upon a public servant with the intent to influence the public servant's vote, opinion, judgment, action, decision or exercise of discretion in an official capacity. (ORS 162.015). Bribe giving is a Class B felony, punishable with up to 10 years in jail and a \$250,000 fine (ORS 161.625, ORS 161.605).

A public servant commits the crime of bribe-receiving if the public servant: (a) solicits any pecuniary benefit with the intent that the vote, opinion, judgment, action, decision or exercise of discretion as a public servant will thereby be influenced; or —(b) accepts or agrees to accept any pecuniary benefit upon an agreement or understanding that the vote, opinion, judgment, action, decision or exercise of discretion as a public servant will thereby be influenced (ORS 162.025). Bribe receiving is a Class B felony punishable with up to 10 years in jail and a \$250,000 fine (ORS 161.625, ORS 161.605).

F. OFFICIAL MISCONDUCT

A board member commits the crime of official misconduct in the second degree if the person knowingly violates any statute relating to the office of the person (ORS 162.405). Official misconduct in the second degree is a Class C misdemeanor, punishable with up to 30 days in jail and a \$1250 fine (ORS 161.615, ORS 161.635).

A board member commits the crime of official misconduct in the first degree if with intent to obtain a benefit or to harm another: (a) the public servant knowingly fails to perform a duty imposed upon the public servant by law or one clearly inherent in the nature of office; or (b) the public servant knowingly performs an act constituting an unauthorized exercise in official duties (ORS 162.415). Official misconduct in the first degree is a Class A misdemeanor, punishable with up to one year in jail or a \$6250 fine (ORS 161.635, ORS 161.615).

G. ECONOMIC INTEREST FORM

Members of the State Board of Education are required to file with the Oregon Government Ethics Commission a verified statement of economic interest by April 15 of each year (ORS 244.050). The statement of economic interest filed under ORS 244.050, shall be on a form prescribed by the Oregon Government Ethics Commission (ORS 244.060). Failure to file the statement may result in a civil penalty (ORS 244.050, ORS 244.060).

The Oregon Government Ethics Commission shall notify the board member if it has not received the statement within five days of its due date and give the board member no fewer than 15 days to comply prior to imposing a penalty. Failure to file the statement may result in the commission imposing a fine of \$10 for each of the 14 days the statement is late and \$50 for each day thereafter (ORS 244.350).

END OF POLICY

**STATE BOARD OF EDUCATION
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**Policy #9
First Adopted: pre-1997
Revised 2007**

PUBLIC RECORDS

1. Definition of Public Records

For retention purposes, a “public record” includes, but is not limited to, a document, book, paper, photograph, file, sound recording or machine readable electronic record, regardless of physical form or characteristics, made, received, filed or recorded in pursuance of law or in connection with the transaction of public business, whether or not confidential or restricted in use (ORS 192.005).

For public access purposes, a “public record” is any writing containing information relating to the conduct of the public’s business, including but not limited to, court records, mortgages and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics” (ORS 192.410(4)).

Board docket items, handouts, administrator files, board e-mails, correspondence, and minutes are all public records required to be retained and accessible by the public (ORS 192.005, OAR 166-350-0010).

Purely personal messages, as well as unsolicited messages and advertisements (spam), are not public records under the retention/disposition aspect of the law but may be accessible to the public under the access portion of the law (ORS 192.502). Confidential records, such as those protected by lawyer-client privilege are not public records.

2. Access to Public Records

All board materials are public documents and available to the public upon request. An exception is confidential lawyer-client materials. In addition, work done on private e-mail accounts as well as personally purchased computers and hand held devices might be considered a public record for both access and retention/disposition (ORS 192.502).

3. Retention of Public Records

The State Board of Education will follow the retention schedule suggested by the Secretary of State’s Archivist (ORS 192.105; OAR 166-350-0010). Tampering with a public record is punishable by a year in prison and a \$5000 fine (ORS 162.305).

- Audio Tapes: Retention:1 year following transcription; destroy
- Minutes: Retention: Permanent; transfer to State Archives after 10 years
- Other meeting records: Retention: 5 years; destroy
- Board Records (correspondence, budgets, committee reports, reports, reference material) --Retention: 4 years, destroy
- Member Personnel Records (appointment letters, employee data sheets) - Retention: 10 years after final term expires, destroy
- Organizational Records (bylaws, mission/goal statements, work plans, policy) - Retention: Permanent, transfer to State Archives after 10 years
- Board Lobbyist Records (registration, correspondence, reports) - Retention: Expenditure reports: 5 years, destroy; Other: 5 years after last activity

4. Charging for Records Requests

The Oregon Public Records Law expressly authorizes a public body to establish fees “reasonably calculated to reimburse it for its actual cost in making such records available.” It further permits local government to include in its fees “costs for summarizing, compiling or tailoring a record to meet the person’s request.” “Actual cost” may include a charge for the time spent by staff to locate the requested records, review the records to delete exempt material, supervise a person’s inspection of the original documents in order to protect the records, copy records, certify documents as true copies or send records by special methods such as express mail. It also includes the cost of an attorney reviewing and segregating records that should not be disclosed. The board may not charge a fee greater than \$25 unless the public body first

provides the requestor with a written notification of the estimated amount of the fee and the requestor confirms that the requestor wants the public body to proceed with making the public record available (ORS 192.440).

END OF POLICY

**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

**Policy #10
First Adopted: pre-1997
Revised 2007**

OREGON ADMINISTRATIVE RULES

A. Definition (ORS 183.310(9)).

Under Oregon ~~law, as law, an~~ administrative rule means any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any ~~agency. The agency. The~~ term includes the amendment or repeal of a prior rule, but does not include:

- Unless a hearing is required by statute, internal management directives, regulations or statements which do not substantially affect the interests of the public:
 - Between agencies, or their officers or their employees; or
 - Within an agency, between its officers or between employees.
- Action by agencies directed to other agencies or other units of government which do not substantially affect the interests of the public.
- Declaratory rulings issued pursuant to ORS 183.410 or 305.105.
- Intra-agency memoranda.
- Executive orders of the Governor.
- Rules of conduct for persons committed to the physical and legal custody of the Department of Corrections, the violation of which will not result in:
 - Placement in segregation or isolation status in excess of seven days.
 - Institutional transfer or other transfer to secure confinement status for disciplinary reasons.
 - Disciplinary procedures adopted pursuant to ORS 421.180. (ORS 183.310)

B. Public Input (ORS 183.333)

It is the policy of this state that whenever possible the public be involved in the development of public policy by agencies and in the drafting of rules. The Legislative Assembly encourages agencies to seek public input to the maximum extent possible before giving notice of intent to adopt a rule.

1. Advisory Committees

The agency may appoint an advisory committee that will represent the interests of persons likely to be affected by the rule, or use any other means of obtaining public views that will assist the agency in drafting the rule.

If an agency appoints an advisory committee for consideration of a rule, the agency shall seek the committee's recommendations on whether the rule will have a fiscal impact, what the extent of that impact will be and whether the rule will have a significant adverse impact on small businesses. If the committee indicates that the rule will have a significant adverse impact on small businesses, the agency shall seek the committee's recommendations on compliance with ORS 183.540.

An agency shall consider an advisory committee's recommendations provided under subsection (3) of this section in preparing the statement of fiscal impact required by ORS 183.335 (2)(b)(E).

If an agency does not appoint an advisory committee for consideration of a permanent rule under subsection (1) of this section and 10 or more persons likely to be affected by the rule object to the agency's statement of fiscal impact as required by ORS 183.335 (2)(b)(E) or an association with at least 10 members likely to be affected by the rule objects to the statement, the agency shall appoint a fiscal impact advisory committee to provide recommendations on whether the rule will have a fiscal impact and what the extent of that impact will be. An objection under this subsection must be made not later than 14 days after the notice required by ORS 183.335 (1) is given. If the agency determines that the statement does not adequately reflect the rule's fiscal impact, the agency shall extend the period for submission of data or views under ORS 183.335 (3)(a) by at least 20 days. The agency shall include any recommendations from the committee in the record maintained by the agency for the rule.

2. Interested Parties

Any agency in its discretion may develop a list of interested parties and inform those parties of any issue that may be the subject of rulemaking and invite the parties to make comments on the issue (ORS 183.333).

3. Hearing

Opportunity for oral hearing shall be granted upon request received from 10 persons or from an association having not less than 10 members before the earliest date that the rule could become effective after the giving of notice. An agency holding a hearing upon a request made under this subsection shall give notice of the hearing at least 21 days before the hearing to the person who has requested the hearing. The agency shall publish notice of the hearing in the bulletin referred to in ORS 183.360 at least 14 days before the hearing. The agency shall consider fully any written or oral submission (ORS 183.335).

C. Notice (ORS 183.335, 183.341; OAR 581-001-000)

Prior to the adoption, amendments or repeal of any rule, the State Board of Education shall give notice of the proposed adoption, amendment or repeal:

- In the *Secretary of State's Bulletin* referred to in ORS 183.360 at least 21 days prior to the effective date of the rule to be adopted;
- By mailing, at least 28 days before the effective date of the rule, a copy of the notice to persons on the State Board of Education's mailing list established pursuant to ORS 183.335(7);
- Persons who wish to be placed on the State Board of Education's mailing list may request in writing that the Department mail to the person copies of its notice of proposed rulemaking;
- By mailing a copy of the notice to the following persons, organizations or publications:
 - Associated Press;
 - ~~Chancellor's Office, State Department of Higher Education;~~ Higher Education Coordinating Commission
 - Confederation of Oregon School Administrators;
 - Established student and parent organizations that have submitted mailing addresses;
 - Education Service Districts;
 - Oregon Community College Association;
 - Oregon Education Association;
 - Oregon Education Policy and Planning;
 - Oregon Federation of Teachers;
 - Oregon School Boards Association;
 - Oregon School Employees Association; and
 - Capitol Press Room

D. Content of Notice (ORS 183.335)

The required notice may be given in written or electronic form and must include:

- A caption of not more than 15 words that reasonably identifies the subject matter of the agency's intended action. The agency shall include the caption on each separate notice, statement, certificate or other similar document related to the intended action.
- An objective, simple and understandable statement summarizing the subject matter and purpose of the intended action in sufficient detail to inform a person that the person's interests may be affected, and the time, place and manner in which interested persons may present their views on the intended action.
- A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;
- A citation of the statute or other law the rule is intended to implement;
- A statement of the need for the rule and a statement of how the rule is intended to meet the need;
- A list of the principal documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and their location;
- A statement of fiscal impact identifying state agencies, units of local government and the public which may be economically affected by the adoption, amendment or repeal of the rule and an estimate of that economic;
- If an advisory committee is not appointed under the provisions of ORS 183.333, an explanation as to why no advisory committee was used to assist the agency in drafting the rule; and

- A request for public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.
- When providing notice of an intended action under subsection (1)(c) of this section, the agency shall provide a copy of the rule that the agency proposes to adopt, amend or repeal, or an explanation of how the person may acquire a copy of the rule. The copy of an amended rule shall show all changes to the rule by striking through material to be deleted and underlining all new material, or by any other method that clearly shows all new and deleted material.

E. Temporary Rules (ORS 183.335)

An agency may adopt a temporary rule that adopts, amends or suspends a rule without prior notice or hearing or upon any abbreviated notice and hearing, if the agency prepares:

- A statement of its findings that its failure to act promptly will result in serious prejudice to the public interest or the interest of the parties concerned and the specific reasons for its findings of prejudice;
- A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;
- A statement of the need for the rule and a statement of how the rule is intended to meet the need;
- A list of the principal documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection.

A rule adopted, amended or suspended under subsection (5) of this section is temporary and may be effective for a period of ~~not longer~~no longer than 180 days.

F. Filing of Rules (ORS 183.355)

Each agency shall file in the office of the Secretary of State a certified copy of each rule adopted by it. Each rule is effective upon filing as required, unless another effective date is given.

G. Rules Review (ORS 183.405)

Not later than five years after adopting a rule, an agency shall review the rule for the purpose of determining:

- Whether the rule has had the intended effect;
- Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
- Whether subsequent changes in the law require that the rule be repealed or amended; and
- Whether there is continued need for the rule.

H. Rules Coordinator (ORS 183.330)

Each state agency that adopts rules shall appoint a rules coordinator and file a copy of that appointment with the Secretary of State. The rules coordinator shall:

- Maintain copies of all rules adopted by the agency and be able to provide information to the public about the status of those rules;
- Provide information to the public on all rulemaking proceedings of the agency; and
- Keep and make available the mailing list required by ORS 183.335 (8).

I. Readability (ORS 183.750)

The Department of Education ~~and Department of Community College and Workforce Development~~ shall prepare its public writings in language that is as clear and simple as possible.

END OF POLICY

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SECTION B

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BOARD GENERAL
GOVERNANCE
POLICIES

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**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

**Policy #100
First Adopted: pre-1997
Revised: 2007, 8/2009**

Board Policies & Procedures

A. Board Policies

The board shall operate under its policies as directed by law and as adopted by the board. These policies may be adopted, amended, or repealed by a majority of the board. No amendment shall be contrary to the laws of Oregon.

The policies may be amended at any meeting upon giving the members of the board ten (10) days advance notice of such proposed amendments, and upon an affirmative vote of a majority of the directors. Punctuation, grammar, and typographical errors may be corrected by board staff without a vote of the board.

B. Board Procedures

The board shall regularly review its operational procedures, generally at its annual retreat. At a minimum, the board's operational review shall include an annual work plan session.⁴

END OF POLICY

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⁴ 1997 *State Board of Education Policy Manual*, Code BK

**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

**Policy #101
First Adopted: pre-1997
Revised 2007, 8/2009**

BOARD OFFICERS/BOARD ORGANIZATION

A. CHAIR

The board shall elect one of its members to serve as chairperson of the board for one year commencing July 1. If the office of chairperson of the board is permanently vacated for any reason, the board may elect a new chairperson to serve until the June 30 next following year (ORS 326.041).

A member may serve as chair for no more than two consecutive years.⁵

Duties of the Chair:⁶

- Calls special meetings not on board's adopted calendar.
- Sets agenda.
- Presides at meetings.
- Ensures fairness and impartiality.
- Enforces parliamentary procedure.
- Names members for board subcommittees and liaisons, unless a majority of the board votes otherwise.
- Serves as an ex-officio member on board subcommittees.
- Acts as the primary spokesperson to the press for the board.
- Performs other duties as may be required by law or action of the board.

B. VICE CHAIR⁷

The board will elect one of its members to serve as vice-chairperson of the board for one year commencing July 1.

Duties of the Vice Chair:

- Presides at meetings in the event of an absence of the Chair.
- Performs other duties as directed by the Chair or the vote of the board.

C. SECOND VICE CHAIR⁸

The board will elect one of its members to serve as second vice-chairperson of the board for one year commencing July 1.

Duties of the Second Vice Chair:

- Presides at meetings in the event of an absence of the Chair and Vice Chair.
- Performs other duties as directed by the Chair or the vote of the board.

D. MEMBER DUTIES

- Attend meetings on time, prepared to act on the agenda.
- Act in an impartial, fair, and courteous manner.
- Familiarize themselves with proper parliamentary procedure.
- Accept assignments and complete them in a timely manner.

⁵ *State Board of Education Policy Manual, 1997, Code BCB.*

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

- Respect and accept majority rules.
- May, with three other board members, add items to the agenda.

E. ORGANIZATION

1. Subcommittees

The board chair may form subcommittees and workgroups on issues before the board to make more efficient use of meeting time. A “subcommittee” will consist solely of board members with staff support; a “work group” will include other stakeholders and is led by staff.

When subcommittees and work groups are created, their duties and length of service will be determined by chair, unless a majority of the board votes otherwise. Board members serving on committees will keep the board apprised of the committee’s activities.

Committees will comply with the Oregon public meetings law.

a. The Executive Committee assists the chair in carrying out his or her duties. The Executive Committee consists of the Chair, Vice Chair, and immediate past Chair, or Chair, Vice Chair, and Second Vice Chair. The Chair will determine membership of the Executive Committee.

The Executive Committee is empowered to act in emergencies requiring immediate action and in which reasonable efforts to convene an emergency meeting or conference call to resolve the issue have not succeeded. Notification of any such action must be conveyed to all board members as soon as possible and ratified by the full board at the next regular meeting.⁹ Failure to ratify the Executive Committee’s action by the full board nullifies the decision.

2. Liaisons:

Members may be asked to be a contact for various education associations and attend some or all meetings. Members and advisors may be reimbursed for their participation in assigned liaisons.

END OF POLICY

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⁹ 1997 State Board of Education Policy Manual, Code BCE

**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

**Policy #102
First Adopted: pre-1997
Revised 2007; 8/2009; 1/2014; 6/2014**

BOARD ADVISORS/STAKEHOLDER GROUPS

A. Creation and Term of Board Advisors

The board may elect to have board advisors. Advisors will serve a one-year term from July 1 through June 30. Advisors may serve more than a single term and be re-elected for consecutive terms. Advisors will receive all materials distributed to the board as a whole.

1. Criteria for Advisor Selection

- Interest in serving as an advisor for one year
- Commitment to attend board meetings and any special board functions
- Willingness to participate in policy discussions
- Ability to deliberate policy issues
- Demonstrated leadership qualities
- Experience with education delivery in Oregon
- Actively employed in good standing.

2. Advisors

- K-12 School Administrator
- K-12 Teacher
- Community College faculty member
- K-12 Student
- Early Learning Teacher/Professional Advisor

3. Advisor Selection Process

In consultation with the Superintendent of Public Instruction, the Commissioner of Community Colleges, and the board chair, advisors will be selected as follows:

K-12 School Administrator: Up to three nominations from the Confederation of School Administrators will be submitted to the board. The board Executive Committee will recommend a candidate to the full board who will vote on the selection.

K-12 Teacher: Up to three nominations from the Oregon Education Association will be submitted to the board. The board Executive Committee will recommend a candidate to the full board who will vote on the selection.

Community College Faculty: Up to three nominations from the OEA Community College Uniserv Council will be submitted to the board. The board Executive Committee will recommend a candidate to the full board who will vote on the selection.

K-12 Student: The board administrator will solicit candidates, review applications, and forward up to three names to an interviewing committee named by the board chair who will recommend a candidate to the full board who will vote on the selection.

Early Learning Advisor: Nominations will be made from the Early Learning Council and early childhood communities. The executive board will review the nominations and make a recommendation to the full board.

Board advisors will be approved by a vote of the full board.

3. Responsibilities of Advisors

- Attend board meetings
- Assist the board in analyzing issues, proposals, and requests before it
- Other duties as assigned by the board chair

4. Advisor Compensation

Advisors are eligible for reimbursement of actual expenses incurred in attending board meetings and board-related activities, including mileage, meals, and hotels.

B. Stakeholder Groups

The board may vote to have regular reports from stakeholder groups.

1. Recognized Stakeholders

- Oregon Community College Association
- Oregon Community College Student Association

2. Stakeholder Selection Process

Oregon Community College Association: The Oregon Community College Association will elect to send its director or board member.

Oregon Community College Student Association: The Oregon Community College Student Association will elect one of its members.

3. Responsibilities of Stakeholders

- Make periodic updates at board meetings of their organization's activities
- Assist the board in analyzing issues, proposals, and requests before it

END OF POLICY

Comment [NJ3]: Are these appropriate groups now that CCWD is no longer under SBE? What other stake holders should there be.

**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

**Policy #103
First Adopted: pre-1997
Revised 2007; 8/2009; 6/2014**

MEETING PROTOCOL

The State Board of Education will conduct all meetings in accordance with state law and will be accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations should be made at least 48 hours prior to the meeting.

A. Agendas

The board chair, working with the board administrator, the Superintendent of Public Instruction, and the ~~Commissioner of Community College Services~~ will prepare an official agenda for board meetings. The agenda will be posted to the board's website and distributed to interested parties as soon as it is available. Any four board members may request in writing that an item be added to an agenda.

B. Docket Materials

1. Content

All items on the agenda will be accompanied by written material that supports the presence of the item on the agenda, unless the item is a presentation by someone other than ODE staff.

2. Timing

The agenda with supporting detail will be provided to each state board member and advisor approximately one week prior to the board meeting.¹⁰

3. Public Access

All board documents, to the extent possible, will be posted on the State Board of Education's website.

4. Recommendations

When action on an item is requested, staff will make a recommendation on what that action should be to the board.

C. Public Comment¹¹

Persons or groups wishing to appear before the board may be given a reasonable opportunity to do so; there will be time allotted on each agenda for public comment. A sign-up sheet for those who wish to offer comments or testimony on any item will be available at the meeting. The board may impose such time limitations on any appearance as it may deem appropriate. Written testimony may also be submitted to the board. The public comment period is not to be used as a vehicle for immediate resolution of problems, but is a method to bring important issues to the board's attention. Speakers may offer objective criticism of state operations and programs, but the board will not hear complaints concerning individual personnel; persons with such complaints will be directed to the appropriate process for the disposition of personnel complaints. The board will not hear comments on administrative rules after the comment period has ended.

D. Consent Agenda¹²

Items requiring board approval may be placed on the consent agenda upon the recommendation of the superintendent ~~or the commissioner~~. Any item may be removed from the consent agenda by a board member. Items remaining in the consent agenda section will be adopted by a single motion. Actions that have been taken by the superintendent ~~or the commissioner~~ that require board approval may be placed on the agenda in the for-the-record section. By a single

¹⁰ 1997 State Board of Education Policy Manual, Code BDDA. Prior requirement was 5 days before a meeting.

¹¹ State Board of Education Policy Manual, 1997, policy code BDDB

¹² State Board of Education Policy Manual, 1997, policy code BDDB

consent motion, the board adopts the resolutions submitted and ratifies the actions presented in the for-the-record section.

E. Parliamentary Procedure

Except where otherwise noted, the board will be guided by *Robert's Rules of Order Newly Revised, 10th Ed.* The board administrator will serve as parliamentarian.

1. Discussion

The Chair will direct discussion, determining who may question a witness and the length of the questioning. Members wishing to question witnesses must seek recognition from the Chair before proceeding. The Chair may participate in the discussion. Members may not speak a second time until all members have had the opportunity to speak.

2. Motions

Any member may make a motion. The Chair will repeat the motion for clarity. Once a motion is stated, it belongs to the assembly, not the maker of the motion. Motions may be modified or withdrawn if a majority of the board agrees. A motion need not be seconded by another member; board members represent constituencies that deserve to be represented without the approval or support of another.

3. Discussion on the Motion

Members may discuss the merits and demerits of the motion, including the Chair. The Chair will recognize those members wishing to speak at least once.

4. Voting

All members are expected to participate in voting and cannot abstain unless there is a conflict of interest exists. If an conflict of interest arises, a member will need to excuse themselves from any votes or discussion. Four "aye" votes are required for action. Votes may be taken either by individually calling member names, by a group voice vote, or by "unanimous consent." ~~The~~ chair may say, "If there is no objection . . ." If an objection is lodged, a roll call vote must then be taken. Following the vote, the chair will announce vote and whether the motion has failed or passed. All votes must be recorded in the minutes indicating how each member voted.

Comment [NJ4]: This is suggested language and can be changed or moved.

When a potential conflict of interest exists, the member will announce that conflict and be allowed to vote. When an actual conflict exists, the member will announce the conflict and refrain from participating in the debate or vote unless necessary for a quorum (ORS 244.120). The conflict will be recorded in the minutes (ORS 244.130).

A vote by proxy is a vote cast by a substitute on behalf of a member who is not present at the meeting. Proxy voting is not authorized since no member of the board is empowered to delegate his or her vote to others.¹³

F. Executive Sessions

Members of the State Board of Education will not reveal information learned in executive session to others, and shall keep the lawyer-client privilege that attaches to such a session.

END OF POLICY

¹³ *Attorney General's Public Records and Meetings Manual*, Appendix C, E Proxy Vote, Absentee Vote, Votes by Mail, and Secret Ballots Prohibited. January 2008, p. C-6.

**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

**Policy #104
First Adopted: pre-1997
Revised 2007; 8/2009**

BOARD AUTHORITY/INDIVIDUAL AUTHORITY

Any duty imposed upon the board as a body will be performed at a regular or special meeting and will be made a matter of record.¹⁴ For a complete list of statutory responsibilities, see Appendix.

A. Board Committee Authority

The board chair may form committees and workgroups on issues before the board to make more efficient use of meeting time.

Committees and workgroups may schedule meetings and invite stakeholders as needed. Committees and workgroups are expected to make regular reports that include policy issues and recommendations to the full board.

The Executive Committee assists the chair in carrying out his or her duties. The Executive Committee is empowered to act in emergencies requiring immediate action and in which reasonable efforts to convene an emergency meeting or conference call to resolve the issue have not succeeded. Notification of any such action must be conveyed to all board members as soon as possible and action will be ratified at the next regular board meeting.¹⁵

B. Individual Board Members

Board members will have authority only when acting as a member of the board when legally in session. The board cannot be bound by statements or actions of individual board members or employees, except when such a statement or action is pursuant to policies of the board or as delegated by the board.¹⁶

Board members do not have the authority to direct the staff work. The chair may, however, ask staff, through the board administrator, and in consultation with the ~~commissioner and~~ Superintendent, to prepare materials for presentation to the full board. The chair may do this in anticipation of questions board members may have about a specific issue.¹⁷

Any board member who desires a written report or survey prepared by the administrative staff will make such a request to the ~~Superintendent or commissioner~~ through board staff. Individual board member requests will also be distributed to other board members or a notification of the request will be made to each board member.¹⁸

Board members will not presume to speak for the board unless the board has arrived at a formal decision. Members should also be cautious about voicing personal opinions since those views may be interpreted as representing board opinion. Members should not, for example, write a letter to the editor on an education issue, especially a letter signed with his title as board chair, unless the board has authorized it. Members of the board will not use their position or Oregon Department of Education facilities to advocate individual views on an issue without the official sanction of the board.¹⁹

Board members should be especially cautious in becoming involved in matters that may be appealed to the State Board of Education in its judicial function, as the member may need to be recused from discussion and voting on that matter.

END OF POLICY

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¹⁴ *State Board of Education Policy Manual, 1997, policy code BBAA*

¹⁵ *1997 State Board of Education Policy Manual, Code BCE*

¹⁶ *State Board of Education Policy Manual, 1997, policy code BBAA*

¹⁷ Language suggested by Oregon Community College Association Governance "Board Operations" section.

¹⁸ *Ibid.*

¹⁹ *State Board of Education Policy Manual, 1997, policy code BBAA*

**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

**Policy #105
First Adopted: pre-1997
Revised 2007; 8/2009; 6/2014**

STAFF TO THE BOARD²⁰

The Superintendent of Public Instruction acts as administrative officer of the State Board of Education (ORS 326.310). The superintendent may delegate this responsibility to other staff.

A. Board Administrator & Support Staff

Staff to the board will be responsible for the day-to-day activities of board work including the following:

1. Coordinating the preparation of board agendas, docket items, and minutes in keeping with the Public Records Law.
2. Facilitating communication between the board and others, including the Governor, Legislature, superintendent, commissioner, state and federal agencies, and state, local, and national organizations.
3. Coordinating travel and expense reimbursement to meetings.
4. Developing and monitoring expenditures from biennial board budget.
5. Coordinating and overseeing board standing and special committees.
6. Orienting new members and advisors to board processes and agency functions.

B. Department of Justice

The State Attorney General's office is the authorized legal counsel for the State Board of Education, the Superintendent of Public Instruction, and the Department of Education (ORS 180.060; 180.220). No state officer, board, commission, or the head of a department or institution of the state shall employ or be represented by any other counsel or attorney at law (ORS 180.220).

C. Agency Staff

Agency staff will bring issues to the board for policy direction through the Superintendent of Public Instruction.

Individual board members do not have the authority to direct individual staff work. The chair may, however, ask staff, through the board administrator, the superintendent, or the commissioner to prepare materials for presentation to the full board. The chair may do this in anticipation of questions board members may have about a specific issue.²¹ Requests of staff by the full board shall be evaluated in terms of resources and impact on the agency by the commissioner and superintendent who shall report on that impact at the next regular meeting.

Docket items prepared by agency staff should communicate clearly the issue, background on the issue, what problem needs to be solved, and a staff recommendation.

END OF POLICY

²⁰ Summarized from list found in *State Board Policy Manual, 1997*, policy code BCBB

²¹ Language suggested by Oregon Community College Association Governance "Board Operations" section.

**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

**Policy #106
First Adopted: pre-1997
Revised 2007; 8/2009**

BOARD MEMBER PROFESSIONAL DEVELOPMENT²²

A. Orientation

The board administrator will orient each new board member and advisers concerning the board's functions, rules, policies, and procedures.

The appointee will be given materials to assist in the orientation to the board's work.

Prior to taking office, the appointee will be invited to attend board meetings and participate in discussions.

Staff will supply material pertinent to meetings and will explain its use.

The appointee will be invited to meet the state superintendent, commissioner, and others to discuss services they perform for the board.

B. On-Going Professional Development

Board member professional development opportunities may include but are not limited to participation in conferences, workshops, and conventions held by state and national associations, and subscriptions to publications.

The superintendent ~~or commissioner~~ will inform board members in a timely manner of upcoming conferences, conventions and workshops. The board will decide which meetings appear to be most likely to produce the greatest benefit to the board.

Funds for participation at such meetings will be budgeted. When funds are limited, the board will designate which members would be most appropriate to participate at a given meeting and approve the participation at a board meeting. If the board does not have an opportunity to approve the participation prior to the event date, the board chair may approve the participation. The participation shall be placed on the agenda for approval, and the member will report on the event at the next board meeting.

If authorized to attend, reimbursement will be for reasonable and necessary expenses actually incurred.

When a conference, convention or workshop is not attended by the full board, those who do participate will be requested to share, by means of written or oral reports, information, recommendations and materials acquired at the meeting.

END OF POLICY

²² 1997 State Board of Education Policy Manual, Code BH, BHB

**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

Policy #107
First Adopted: pre-1997
Revised 2007; 6/2014

BOARD PARTNERSHIPS

The State Board of Education works cooperatively with others engaged in improving education for Oregon's PK-~~42-20~~
~~and community college students~~ educational system. These partnerships²³ include, but are not limited to the following:

- The Governor;
- The Legislature;
- The federal government, particularly the US Department of Education;
- The Oregon Education Investment Board;
- The Higher Education Coordinating Commission;
- The Early Learning Council;
- ~~The State Board of Higher Education and the Chancellor of the Oregon University System;~~
- Education and Workforce Policy Advisor;
- Oregon Student Assistance Commission;
- The Teacher Standards & Practices Commission;
- The Oregon Workforce Investment Board;
- The Oregon Community College Association;
- The Quality Education Commission;
- Local school districts;
- Education Service Districts;
- Oregon's seventeen community colleges through the Oregon President's Council;
- The Northwest Association of Schools and Colleges;
- Private schools; and
- Business, industry, and labor.

The board should regularly communicate with members of the Legislative Assembly and be available to them for consideration of educational matters. Similarly, the board encourages its partners to communicate their concerns and needs to the board.

The superintendent and commissioner will regularly communicate with the Governor and Legislature regarding the needs of public education.

END OF POLICY

²³ Condensed from policies in the 1997 State Board of Education Policy Manual, Codes LAB, LAC, LB, LBA, LBB, LBCA, LC, LE, IG

**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

**Policy #108
First Adopted: pre-1997
Revised 2007; 8/2009; 6/2014**

ADOPTION OF OREGON ADMINISTRATIVE RULES

A fundamental responsibility of the board is the adoption of Oregon Administrative Rules that govern the state's school districts.

The board is the lawful and final authority in formulating policy but may involve those who will be affected. In formulating administrative rules, staff is directed to collaborate with interested parties, provide public notice and consider public comment.

A. Board Process for Permanent Rule-Making

The board will have sufficient time to consider a proposed administrative rule. Once staff has determined the need for an administrative rule, the following steps will be observed:

1. An advisory committee will be created if the proposed rule will have a significant impact on a segment of the board's constituency. If an advisory committee is not formed, then stakeholders will be consulted.
2. Staff will draft the rule. If the rule amends a prior rule, the changes will be clearly displayed, with new language in bold, and deleted language marked as deleted.
3. Staff will bring the proposed rule to the board for a "first reading," showing the proposed changes and review the need for the rule and what the rule accomplishes.
4. Staff will schedule and hold a public hearing on the proposed rule. The hearings officer will summarize the oral testimony presented at the hearing.
5. Staff will revise the rule if advisable.
6. If significant changes are made, the rule will be returned to the board for a "second reading."
7. If significant changes are not made, or following a second reading of the rule, staff will schedule the rule for adoption before the state board.

B. Board Materials

The packet of materials will be sufficient to inform the board of the need for the rule, and what the rule accomplishes.

1st/2nd Reading:

- Issue background and explanation of the need for the rule.
- Rule number and wording with the changes clearly indicated.
- Estimated fiscal impact, as indicated on the board's rule template.

Adoption:

- Issue background and explanation of the need for the rule.
- Rule number and wording with the changes clearly indicated.
- Estimated fiscal impact, as indicated on the board's rule template.
- Hearings Officer Report, including a summary of oral testimony.
- Written testimony submitted or summary of written testimony submitted.

C. Notice

An administrative rule will not be voted on without prior public notice unless it is a temporary rule and failure to act promptly will result in serious prejudice to the public interest or the interest to the parties concerned. Such notice will be on the board agenda and include the number of the board rule and the title of the board sufficient to give the public adequate notice of the matter before the board.²⁴

D. Public Comment

In order to avoid opening up the public comment period, the board will not entertain testimony on a proposed rule after the public comment period has closed. This generally will mean public comment will not be taken the month the rule is scheduled for adoption.²⁵

However, this does not in any way foreclose the board members from discussing and debating among themselves the merits of the proposed rules at a meeting. The board is also free to ask questions and seek input from ODE staff at the meeting. Finally, the limits discussed above apply to comments that are received by the board as a body. Individual board members are free to discuss board business, including proposed rules, with members of the public.

E. Temporary Rules

When the failure to immediately modify, adopt, or suspend a rule will result in serious prejudice to the public interest or the interest of the parties concerned, the board may enact a temporary rule with an effective period of no more than 180 days.

No prior notice, hearing, or board meeting is necessary prior to a temporary rule adoption. Staff will include the following information in their written docket item:

1. An explanation as to why immediate action is needed.
2. A copy of the proposed rule language.
3. A list of principal documents, reports, or studies, if any, prepared by the agency or relied upon by the agency when considering the need for the rule and writing the rule.

F. Vote

The adoption, amendment, or repeal of administrative rules will be accomplished by recorded vote with the result entered in the minutes.

END OF POLICY

²⁴ 1997 *State Board of Education Policy Manual*, Code BF

²⁵ Letter of advice from DOJ attorney McKeever, Joe

**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

**Policy #109
First Adopted: 2007
Revised: 8/2009**

REIMBURSEMENT

A. General Travel Policy

A member of the Board is entitled to compensation and expenses as provided in ORS 292.495. Board members will be reimbursed for those costs incurred in participating in regularly scheduled board meetings, Joint Boards of Education meetings, board committee meetings, and other board business events approved by the board.

Members will keep the chair or board staff apprised of activities undertaken on behalf of the board and will seek approval of the activity prior to the activity or travel. All state-funded out-of-state travel will be reviewed and approved in advance by the board at one of its regular meetings except for emergency requests which may be approved by the board Executive Committee.²⁶ Any activities undertaken on behalf of the board will be reported at the next regularly scheduled board meeting.

Board approval is to ensure that such travel is aligned with board budget priorities, within the board budget, and will be part of the board budget oversight responsibility. Reimbursements will be made in accordance to Department of Administrative Services (DAS) travel policies (OAM 40.10.00.PO).

B. Lodging Reimbursement

Board staff will arrange for lodging of board members prior to meetings when possible, and will make direct payments to the hotel. Such a practice is designed to reduce board members' out-of-pocket expenses. Staff is directed to follow DAS lodging rates whenever possible.

Travelers are eligible for lodging reimbursement when the one-way distance from their homes is 70 miles or more. Exceptions may be made in special cases that include inclement weather and medical conditions. Individuals traveling on official state business who share lodging will each be reimbursed for their equal share of the allowed per diem for that location. Persons sharing with a family member or friend will be reimbursed for the allowed lodging single room rate expense for that location (ODE Travel, Parking, and Expense Claims procedure).

C. Meal Reimbursement

Meal per diem rates vary depending on departure and arrival times and also if the trip is overnight or non-overnight. Rates (for overnight and ~~non-overnight~~~~non-overnight~~ trips and high-cost locations) can be obtained from the ODE travel management system.

D. Other Board-Related Business Reimbursement

Board members may travel and incur expenses for board-approved events. Requests for reimbursement will include some documentation of the event such as an agenda or e-mail setting up the meeting and any other documentation that supports the request, such as receipts

E. Forms

Board members will use those reimbursement forms provided to them to facilitate timely reimbursement. Additional documentation may be attached to the claim form.

END OF POLICY

²⁶ From 1997 *State Board of Education Policy Manual*, 1997, policy code BHD

SECTION C

POLICIES
RELATING TO THE
DEPARTMENT OF
EDUCATION

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**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

**Policy #300
First Adopted: pre-1997
Revised 2007**

DELEGATION OF AUTHORITY TO STATE SUPERINTENDENT²⁷

The State Board of Education will delegate to the state superintendent, as its administrative officer, authority for administering rules and policies that fall under the scope of the Oregon Department of Education. Functions delegated to the superintendent include the following:

1. Applying for and accepting federal funds, and entering into any contracts or agreements on behalf of the state for the receipt of such federal funds (ORS 326.051).
2. Accepting money or property donated for the use or benefit of public kindergartens, elementary, secondary schools, and using the funds for the purpose it was donated (ORS 326.051).
3. Appointing such personnel as may be necessary for the performance of the duties of the office of the superintendent (ORS 326.310).
4. Obtaining and compiling statistical information relative to the condition and operation of the public schools (ORS 326.310).
5. Administering adult education programs in the public elementary and secondary schools (ORS 326.310); the board shall retain its supervisory responsibilities.
6. Annotating and compiling all school laws (ORS 326.320).
7. Receiving any revenue as a result of ownership/management of intellectual property (ORS 326.530).
8. Distributing board-adopted administrative rules to school districts (ORS 326.565).
9. Soliciting and accepting funds for the Prekindergarten Program Trust Fund and Early Childhood Education Trust Fund (ORS 329.183, 329.228).
10. Distributing prekindergarten funds (ORS 329.195).
11. Coordinating, implementing and assisting public high schools in identifying local and regional needs and resources available for American Sign Language courses (ORS 329.489).
12. Enforcing the requirement that school districts give individual, written notice of reasonable assurance of continued employment to all classified school employees (ORS 332.505).
13. Developing curriculum to commemorate the formation of the provisional government at Champoege (ORS 336.023).
14. Reporting to the public the textbooks and instructional materials the board adopts (ORS 337.080).
15. Contracting with board approved textbook publishers (ORS 337.090).

Should a policy decision by the superintendent be necessary in an emergency where no board policy has been adopted, the superintendent will have the authority to make a decision and will notify the board. The decision will be subject to the approval of the board at its next regular meeting.

The following issues will be referred to the board:

1. Situations that conflict with current board policy;
2. Situations where no policy currently exists;
3. Matters involving major differences of opinion that could not be resolved administratively;
4. Contracts that would be binding upon the board. Such contracts, which must be within budget limitations, will be presented at the next regular board meeting;
5. Any other matter which the superintendent wishes to call to the board's attention.

END OF POLICY

²⁷ With the exception of the list of 15 specific statutory board responsibilities, the language is from the *1997 State Board of Education's Policy Manual*, Code CB

**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

**Policy #301
First Adopted: pre-1997
Revised 2007**

DEPARTMENT BUDGET²⁸

The State Superintendent of Public Instruction will direct the preparation of the Department of Education's budget with input from the State Board of Education in the form and manner required by the Department of Administrative Services. To allow for consideration and approval by the board, budget discussions with the board will begin at least six months before the executive department's deadline for filing the budget document.

Proposals brought to the board for review by the superintendent will be based on realistic assessments of the needs and priorities of the state's educational system. Proposals will be justified with statements which suggest both benefits to and impact on local and state programs. Cost projections will include estimates of expenditure requirements for currently approved programs and activities and for new or revised programs and activities as recommended by the superintendent or requested by the board.

The board will adopt and submit budget proposals to the Governor that:

1. Reflect the board's goals and priorities; the Oregon Progress Board's benchmarks; agency key performance measures; and statewide, long-range plans for education;
2. Reflect the needs of the elementary, secondary, community college systems and other programs under the authority of the State Board of Education;
3. Include base budget requests based on needs and work load increases related to essential services and maintenance and improvement of the agency;
4. May require companion legislation designed to ensure availability of funding for statutorily required activities.

Interested parties will be able to review and comment on proposals prior to the date they are submitted to the Department of Administrative Services. The board reserves the right to consult directly with the Governor on matters of concern.

END OF POLICY

²⁸ 1997 State Board of Education Policy Manual, Code DB

**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

Policy #302
First Adopted: August 2007
Revised: 8/2014

CHARTER SCHOOL LAW WAIVER REQUEST PROCESS

A. Request for Waiver

Pursuant to ORS 338.025, a public charter school (charter school) that has been approved for sponsorship may request the waiver of any provision of ORS 338 (Public Charter School law) by the State Board of Education, as allowed by law.

B. Content of Waiver Request

Such a request must be in writing and addressed to the State Board of Education. Pursuant to OAR 581-~~020-0341-020-0130(2)~~, the request should include the following elements:

1. The ORS law to be waived.
2. The specific reason(s) the charter school is seeking the waiver and any other relevant information.
3. The impact the waiver will have on the school.
4. Evidence that the sponsor has been notified as required under OAR 581-026-0130(2).
5. How the waiver will promote the development of programs by providers, enhance the equitable access by underserved families to the public education of their choice, extend the equitable access to public support by all students, or permit high quality programs of unusual cost. (ORS 338.025; OAR581-026-0130(3))
6. Whether the sponsoring school district supports the law waiver request.

C. Review Process

Upon receipt of the request, board or ODE staff shall acknowledge receipt of the request to the charter school principals requesting the waiver, and shall assign staff to review the request. Staff will evaluate the request for the following elements:

1. Whether the request is allowed under state law.
2. Whether the board has received and approved similar requests.
3. Whether the sponsoring school district supports the waiver.
4. Who, if anyone, is likely to oppose the request.
5. What policy issues the request raises, if any.
6. The impact on students, other school districts, other entities, and the state's education system, if any.

Reviewing staff will notify board staff upon completion of the review, notify the requestors of the results of the review (recommend waiver or not), and schedule the item for board review as an information item.

D. Board Review

The contents of the docket item shall be written by the staff reviewer and shall include, at a minimum:

1. The name of the charter school and its sponsor;
2. How long the charter school has been operating;
3. The ORS law to be waived and its content;
4. Whether the sponsoring school district supports the waiver;
5. Any other support and opposition to the waiver submitted to the Deputy Superintendent;
6. The impact on students, other school districts, other entities, and the state's education system, if any;
7. Any correspondence or supporting documents from the charter school, district, or others concerning the request; and
8. A recommendation as to whether the request should be granted or not, and the reasons for the recommendation.

Upon review by the board, board members may request additional information from the [Deputy Superintendent](#) regarding the waiver. The item shall be scheduled for action as soon after the initial hearing, generally at the following board meeting.

Should the charter school principals want to make a presentation to the board directly, such requests will be made to board staff and decided by the board chair.

E. Hearing

If waiving the statute(s) has statewide impact, the State Board of Education may schedule a public hearing on the issue prior to making a decision. The hearing may be scheduled during a regular board meeting or may be delegated to the [Deputy Superintendent](#) to schedule at a different time and place. If the hearing takes place separately from a regularly scheduled board meeting, testimony shall be summarized for board members to consider.

F. Decisions

Within 120 days of receipt of the proposal, the board will act upon the request. The time period may be extended for good cause. Once the board has voted on whether to grant the waiver or not, the decision shall be communicated to the charter school and the sponsoring school district in a timely manner. Decisions shall also be logged in a reference document identifying the name of the charter school, the waiver requested, and the date the board decided the request. Such a log will aid in the research of future waiver requests.

END OF POLICY

**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

Policy #303
First Adopted: 6/2008
Revised 10/2010

**CHARTER SCHOOL DENIAL REVIEW / STATE BOARD OF EDUCATION
SPONSORSHIP REQUESTS**

A. Review of School District Decision

Following the district denial of charter school proposal, the applicant may request that the State Board of Education review the decision of the school district board within 30 days of the local board's decision to deny (ORS 338.075/agency timelines). The request should be accompanied by the most recent charter proposal submitted to the district and the district's written response to that proposal. ODE staff will notify the district of the request for review and possible sponsorship and will request the full record of board (including subcommittees) discussions of the proposal. The board delegates to the superintendent of public instruction or designee all administrative functions necessary to conduct the review (OAR 581-020-0331). Staff will attempt to mediate a resolution between the applicant and the district board, and may recommend revisions to the proposal; mediation will be completed within 60 days of the department's receipt of the request to review. If mediation fails, the board may sponsor the charter school if the school meets the legal requirements set forth in law (ORS 338.075).

B. Request for Sponsorship

Upon failure of mediation, the applicant may request that the State Board of Education sponsor the charter school (ORS 338.075) within 30 days of being notified of the completed mediation (agency timeline). The request should be accompanied by the most recent charter proposal submitted to the district, including any revisions agreed upon during mediation. The board decision to sponsor a charter school shall be based on the most recent charter proposal submitted to the district including any revisions agreed upon during mediation. The state shall not participate in negotiations that significantly amend the most recent charter proposal rejected by the local school district. However, minor changes needed to accommodate board sponsorship and state oversight may be made.

Such a request for state board sponsorship from the charter school applicant must be in writing, such as e-mail, to the board chair, with board staff copied on the request. Board staff will then make a note of this pending request.

C. Sponsorship Review Process

Pursuant to ORS 338.075(3), the state board may reject a request to sponsor a charter school if the school fails to meet the requirements of ORS Chapter 338.

Staff shall evaluate the proposal using the criteria in ORS 338.055, OAR 581-020-0331, and the Department of Education's *Guide to State Board of Education Charter School Sponsorship*:

1. Compliance with state and federal law.
2. The demonstrated, sustainable support for the public charter school by teachers, parents, students and other community members, including comments received at the public hearing held by the district;
3. The demonstrated financial stability of the public charter school;
4. The capability of the applicant, in terms of support and planning, to provide comprehensive instructional programs to students pursuant to an approved proposal;
5. The capability of the applicant, in terms of support and planning, to specifically provide, pursuant to an approved proposal, comprehensive instructional programs to students identified by the applicant as academically low achieving;
6. The extent to which the proposal addresses the information required in ORS 338.045;
7. Whether the value of the public charter school is outweighed by a directly identifiable, significant and adverse impact on the quality of the public education of students residing in the school district in which the public charter school will be located;
8. Whether there are arrangements for any necessary special education ~~and~~ related services for children with disabilities pursuant to ORS 338.165; and

9. In the case of a conversion from an existing public school, whether there are alternative arrangements for students and for teachers and other school employees who choose not to attend or who choose not to be employed by the public charter school.

In addition, the department may evaluate the proposal for how the charter school proposal meets the goals of the charter school law (ORS 338.015):

1. Increase student learning and achievement.
2. Increase choices of learning opportunities for students.
3. Better meet individual student academic needs and interests.
4. Build stronger working relationships among educators, parents and other community members.
5. Encourage the use of different and innovative learning methods.
6. Provide opportunities in small learning environments for flexibility and innovation.
7. Create new professional opportunities for teachers.
8. Establish additional forms of accountability for schools.
9. Create innovative measurement tools.

D. Recommendation

Reviewing staff will prepare a summary document and recommendation regarding sponsorship. The recommendation and supporting documentation will be given to the [Deputy Superintendent](#) of Public Instruction, the developer, and the local district. ODE staff will make its recommendation to the [Deputy Superintendent](#) within 60 days of the completion of mediation, however the time period may be extended for good cause.

Reviewing staff will also notify board staff upon completion of the review and schedule the item for board consideration as an information item as soon as feasible.

E. Board Review

1. Contents

The contents of the docket item shall be written by the staff reviewer and shall include, at a minimum:

- a. The name of the charter school and its school district.
- b. The proposal.
- c. Any additional materials requested by staff reviewers.
- d. Reasons for local school board denial of sponsorship request.
- e. Any policy issues the request raises.
- f. A recommendation and the reasons for the recommendation.

Upon review by the board, board members may direct staff for additional information regarding the sponsorship request. The item shall be scheduled for action as soon as possible after the initial hearing (“first reading”) before the board, generally at the next regularly scheduled board meeting.

2. Presentations by Proposed School and District

In the letter containing the staff recommendation that is sent to the applicants and the district, both the applicants and the district will be informed of their option to make a 15-minute presentation before the board. Such presentations will be made at the board’s first hearing of the item, unless the board chair determines otherwise for good cause. Reviewing department staff shall notify board staff of any planned presentations and request enough time for the one or two presentations in addition to the presentation of the staff presentation and recommendation. An outline of the presentations from the applicants and the district is required and will be included in the staff packet on the item.

F. Board Decision

The State Board will consider the recommendation of the superintendent and any other information it deems relevant when determining to reject or sponsor the school. The board’s decision will be made within 75 days of receipt by the State Board of the superintendent’s recommendation, unless extended for good cause (OAR 581-020-0331).

Once the board has voted on whether to sponsor the school or not, the decision shall be communicated to the charter school and the sponsoring school district in a timely manner by department staff. Decisions shall also be logged in a

reference document identifying the name of the charter school, the waiver requested, and the date the board decided the request. Such a log will aid in the research of future sponsorship requests.

G. Operation

Research has shown that adequate planning time to develop a quality infrastructure is critical to a charter school's success. A State Board of Education Charter School will need a minimum of nine months before the school opens to students for such planning. If a developer can demonstrate the capacity to open and operate a fully functioning school in a shorter time period, special permission may be granted.

END OF POLICY

SECTION E

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JOINT BOARDS OF
EDUCATION
BYLAWS

**STATE BOARD OF EDUCATION
POLICY & PROCEDURE MANUAL**

Policy #8
First Adopted: pre-1997
Revised: 11/1998

JOINT BOARD OF EDUCATION BYLAWS

Oregon State Board of Education/~~Oregon State Board of Higher Education~~ Higher Education Coordinating Commission

1. Statement of Purpose

These bylaws are adopted pursuant to ORS 348.890 to provide a procedure for joint meetings of the State Board of Education and the ~~State Board of Higher Education~~ Higher Education Coordinating Commission

2. Call, Time, and Place of Meetings

The two boards will meet jointly at least three times each legislative biennium. A meeting may be called by the presiding officer of either of the boards on reasonable notice to the other board, at a location to be determined by the presiding officers.

3. Agenda

A. The business of a joint meeting will be issues on which one or both boards have jurisdiction or in which actions taken by one will affect the other.

B. The agenda for each meeting will be set jointly by the presiding officers.

C. Meetings of the Joint Boards will be held in compliance with the open meetings law.

4. Presiding Officer

The responsibility to preside over Joint Boards meetings will alternate between the presiding officers of the boards. In the absence of the presiding officer, his/her designee will preside.

5. Quorum and Decision

A. Joint meetings will constitute official meetings of each of the boards.

B. A quorum for a joint meeting is a quorum of each board.

C. Action taken in joint session will be binding and deemed official action of each board, but only if such action is approved by a majority of each board present at the meeting.

6. Committees

A. Each board will select annually three of its members to serve on a Joint Boards Working Group. The Working Group will be responsible for developing the agenda for joint meetings, position papers on issues of concern to the two boards, and related information. The Working Group will be staffed jointly by staff members of the State System of Higher Education, **the Department of Community Colleges and Workforce Development**,²⁹ and State Department of Education as the working group deems appropriate.

B. Ad hoc committees may be formed and appointments made thereto by the presiding officer of each of the boards. The purpose and all activities of an ad hoc committee will be subject to the approval of the appointive board through periodic reports to the appointive board and a report to the Joint Boards.

7. Minutes

The presiding officer of each joint meeting will arrange for the taking and preparation of minutes, which will be promptly circulated for approval by each board.

²⁹ Suggested addition; must be adopted by State Board of Higher Education

8. Proceedings

Joint meeting proceedings will be governed by the most recent edition of *Robert's Rules of Order (Revised)*.

9. Adoption, Amendment, and Repeal of Bylaws

These Bylaws may be adopted, amended, or repealed by concurrence of a lawful majority of each body, acting individually or jointly. No amendment will be contrary to the laws of Oregon or the rules of the bodies.

END OF POLICY

SECTION F

APPENDICES

Department of Administrative Services and Legislative Fiscal Office
Budget Note Report on Performance Measures for Boards and Commissions
Prepared for July 6, 2006 JLAC Meeting
Updated with JLAC decision and list amendments on 8/7/06

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Budget Note

The Department of Administrative Services (DAS) will work with the Legislative Fiscal Office (LFO) to develop best management practices performance measures with respect to governance oversight for applicable boards and commissions. The best practices measures and a list of entities to which these measures should apply will be approved by the Joint Legislative Audit Committee (JLAC) by August 1, 2006. Boards and commissions identified as benefiting from adoption of these measures shall adopt them as Key Performance Measures after they are approved by JLAC. The performance measures should then be made part of the set of performance measures included in the 2007-2009 requested budget of each affected agency.

Boards and Commissions Types

The Governor's Web site identifies over 200 different boards and commissions. There are several types of boards and commissions that do different things.

Boards and Commissions Types and Functions

Type	Function
Governing and licensing boards	Are responsible for directing state agency, policy guidance and/or appointing the agency director. Licensing boards also examine and license members of a profession or occupation.
Policy making boards	Are given statutory power by the legislature to make policy decisions and enforce regulations, however, they do not appoint agency or executive directors.
Advisory boards	Serve as advisors on policy matters to their appointing authority who is responsible for the management and administration of the policy.
Judgment boards	Created by the legislature as review and appeals boards which hear and rule on individual cases.

List of Applicable Boards and Commissions

The budget note asked that best practices be developed to assist boards and commissions that have governance oversight³⁰. To isolate applicable boards, two criteria were established:

- The board has an independent state budget or is included in another state agency's budget.
- The board hires the agency or board's executive director.

Applying these criteria to the Governor's list of boards and commissions produced the following list of candidate boards³¹.

List of Applicable Boards and Commissions

Administrative and Support Services

- Government Standards and Practices Commission
- Oregon Liquor Control Commission

³⁰ Throughout the rest of the document the word board is used generically to represent entities with governance oversight.

³¹ The list does not include semi-independent agencies because they operate outside budget control. These groups are subject to the same administrative and financial guidelines as other agencies, and are currently working on identifying their own list of best practices.

- Public Employees' Retirement Board
- State Library, Trustees of the State Library

Economic Development and Consumer Services

- Accountancy, State Board of
- Construction Contractors Board
- Dentistry, Board of
- Health Related Licensing Boards
 - Chiropractic Examiners, Board of
 - Clinical Social Workers, Board of
 - Counselors & Therapists, Bd. Of Licensed Prof.
 - Dietitians, Board of Examiners of Licensed
 - Mortuary and Cemetery Board
 - Naturopathic Examiners, Board of
 - Nursing Home Administrators, Bd of Ex. Of
 - Occupational Therapy Licensing Board
 - Pharmacy, Board of
 - Psychologist Examiners, Board of
 - Radiologic Technology, Board of
 - Speech-Lang. Path. & Audiology, Bd. Of Ex. For
 - Veterinary Medical Examining Board
- Board of Medical Examiners
- Board of Nursing
- Racing Commission
- Tax Practitioners, Board of

Education

- Community Colleges and Workforce Development
- State Board of Higher Education
- Teacher Standards and Practices Commission
- Student Assistance Commission, Oregon

Human Services

- Commission for the Blind
- State Commission on Children and Families
- Disabilities Commission
- Psychiatric Security Review Board

Natural Resources

- Columbia River Gorge Association
- Department of Environmental Quality, Environmental Quality Commission
- Department of Fish and Wildlife, State Fish and Wildlife Commission
- Department of Forestry, State Board of Forestry
- Department of Geology and Mineral Industries, Governing Board of the Department of Geology and Mineral Industries
- Department of Land Conservation & Development Commission

- Department of Parks and Recreation, State Parks and Recreation Commission
- Department of State Lands

Public Safety

- Commission on Judicial Fitness and Disability
- Council on Court Procedures

Transportation

- Oregon State Marine Board
- Board of Aviation

Governance Best Practices

A review of best practices produced a fairly comprehensive list of suggested practices. Several of the suggestions were not applicable to boards in the State of Oregon. The best practices that were most relevant to the direction provided in the budget note and those that could readily be applied to Oregon governing boards are listed below.

Governance Best Practices

Functions	Best Practices
1. Executive Director Selection, Expectations and Feedback	<ul style="list-style-type: none"> • The board has defined processes for the selection of an executive director/agency head. • The board establishes and communicates executive director/agency head expectations and expected outcomes. • The board periodically (at least annually) provides performance feedback to the executive director/agency head.
2. Strategic Management	<ul style="list-style-type: none"> • Board members understand the agency’s statutory mission, and when appropriate, take necessary actions to ensure the mission remains relevant. • The board has an institutionalized process for periodically reviewing and providing input into the agency’s definition of a mission statement and high-level goals (Strategic Plan). • The board reviews the agency’s <i>Annual Performance Progress Report</i>.
3. Strategic Policy Development Strategic Policy Development Continued	<ul style="list-style-type: none"> • Board members work with executive director/agency head to define the board’s role in strategic policy-making. Typically, board involvement should be greater for major policies issues—those that impact the agency’s mission and high-level goals—than for more functionally oriented policy issues. • Board members review all policy option packages prior to submission. When reviewing policy packages, board members will want to ensure that requests are aligned with the mission and goals of the agency. • Board members should have a consultation process in place to ensure communications about board policy with the Governor, the Legislature and other appropriate constitutional officers.
4. Fiscal Oversight	<ul style="list-style-type: none"> • Board members review all proposed budgets. • Board members periodically review key financial information to ensure

Functions	Best Practices
	<p>that the agency is appropriately accounting for resources.</p> <ul style="list-style-type: none"> • Board members review all audits and other similar information to ensure that resources are used and actions taken by the agency are in compliance with funding requirements, accounting rules and other federal, state and local laws and financial control practices.
5. Board Management	<ul style="list-style-type: none"> • Board members need to act in accordance with their role as a public representative of the agency. • The board monitors and coordinates with other boards where responsibilities and interests are closely related or overlap. • Board members work with the executive director/agency head to determine the targeted amount of time to be spent on strategic management verses strategic policy development issues. • Board has adopted practices that support effective meetings, such as use of consent agendas, subcommittees, opportunities for public comment, and scheduled “free-time” on agendas for richer and more meaningful discussions. • Board members identify and attend appropriate member training sessions, and conduct periodic self-evaluations and audits of board practices.

The performance of Oregon’s governing boards will likely be enhanced by adopting the above listed best practices.

Recommendations

1. Adopt a new key performance measure: percent of total best practices met by the board.
 No single practice can adequately represent effective governance. This proposed measure addresses board adherence to all best practices shown above. Data for the measure should be based on the annual self-evaluation shown in Appendix A, which also provides guidance on how to conduct the self-evaluation. Reporting of this measure will be audited periodically along with other legislatively approved key performance measures.

Suggested implementation:

- Adopt the new measure during the 2007 Legislature Joint Ways and Means process, so the measure will be included in the listing of final Key Performance Measures for 2007-2009³².
- Send a communication from DAS and LFO to impacted agency heads and boards. The note will inform about the Legislature’s decision related to best practice measures and provide a schedule for training about best practices and implementing the selected measures.
- Report measures results in the *Annual Performance Progress Report* along with other agency key performance measures.

2. Modify training and support materials for board members.

Adopting a new performance measures will require the following training and support actions:

- Offer training for current members of governing boards that communicates the requirements for implementing and reporting on a best practices performance measure. The development and

³² Because small agencies budget materials are to be submitted by August 1, 2006, the most efficient way to ensure consistent adoption of a best practices performance measure is to have the measure adopted through Ways and Means rather than through the agency budget process.

facilitation of this training could be a joint venture between DAS, the LFO and the Governor's Executive Appointments Office.

- Adjust future trainings for new board members and the *Membership Handbook for Boards & Commissions* to include information about applying best practices, conducting a self-evaluation, and reporting on the proposed performance measure. This action will be the responsibility of the Governor's Executive Appointments Office.

Appendix A
Best Practices Self-Assessment Guidance

Annually, board members are to self-evaluate their adherence to a set of best practices and report the percent of total best practices met by the board (percent of yes responses in the table below) in the *Annual Performance Progress Report* as specified in the agency Budget Instructions.

Recommended Assessment Process

1. Select a neutral party to facilitate the self-evaluation (recommended, not required).
2. Individual board members complete the score card shown below.
3. Tabulate the results for all board members (can be done by neutral party in advance).
4. Discuss the results—particularly the results for those areas where there are disparate responses or where the group agrees that they are not adhering to a best practice.
5. Record the group’s joint response to each best practice on a new score card. If consensus is not achieved, the board or commission should record the response as “no.”

Best Practices Assessment Score Card

Best Practices Criteria	Yes	No
1. Executive Director’s performance expectations are current.		
2. Executive Director’s receives annual performance feedback.		
3. The agency’s mission and high-level goals are current and applicable.		
4. The board reviews the <i>Annual Performance Progress Report</i> .		
5. The board is appropriately involved in review of agency’s key communications.		
6. The board is appropriately involved in policy-making activities.		
7. The agency’s policy option packages are aligned with their mission and goals.		
8. The board reviews all proposed budgets.		
9. The board periodically reviews key financial information and audit findings.		
10. The board is appropriately accounting for resources.		
11. The agency adheres to accounting rules and other relevant financial controls.		
12. Board members act in accordance with their roles as public representatives.		
13. The board coordinates with others where responsibilities and interests overlap.		
14. The board members identify and attend appropriate training sessions.		
15. The board reviews its management practices to ensure best practices are utilized.		
16. Others <i>[The board may add additional best practices; however, they are not to be counted when calculating the percentage adherence to best practices.]</i>		
Total Number		
Percentage of Total		

Analyzing Assessment Results and Defining Next Steps

Once the above table has been completed, the board will want to prepare responses to the following questions. Responses should be integrated into the *Annual Performance Progress Report*, which is due from agencies on September 30th of each year.

- How are we doing?
- How do we compare to others and/or to our target? (Once this data is available.)
- What factors are affecting our results?
- What needs to be done to improve future performance?

SALARIES AND EXPENSES OF NONELECTIVE STATE OFFICIALS

292.495 Compensation and expenses of members of state boards and commissions. (1)

Subject to the availability of funds therefor in the budget of the state board or commission, and except as otherwise provided by law, any member of a state board or commission, other than a member who is employed in full-time public service, who is authorized by law to receive compensation for time spent in performance of official duties, shall receive a payment of \$30 for each day or portion thereof during which the member is actually engaged in the performance of official duties.

(2) Except as otherwise provided by law, all members of state boards and commissions, including those employed in full-time public service, may receive actual and necessary travel or other expenses actually incurred in the performance of their official duties within the limits provided by law or by the Oregon Department of Administrative Services under ORS 292.210 to 292.250.

(3) As used in subsection (2) of this section, "other expenses" includes expenses incurred by a member of a state board or commission in employing a substitute to perform duties, including personal, normally performed by the member which the member is unable to perform because of the performance of official duties and which by the nature of such duties cannot be delayed without risk to health or safety. No member shall be reimbursed for expenses incurred in employing a substitute in excess of \$25 per day. [1969 c.314 §1; 1973 c.224 §2; 1975 c.441 §1; 1979 c.616 §1]

SUBSISTENCE AND MILEAGE ALLOWANCES FOR TRAVEL BY STATE OFFICERS AND EMPLOYEES

292.210 Definitions for ORS 292.210 to 292.230. As used in ORS 292.210 to 292.230, unless the context otherwise requires:

(1) "State agency" has the same meaning as provided in ORS 291.002.

(2) "State officer" means any elected or appointed state officer, including members of boards and commissions. [Amended by 1953 c.623 §3; 1971 c.153 §1]

292.220 Department to regulate subsistence and mileage allowances for travel; rules. The amounts and nature of subsistence allowances for travel, and the rate of mileage allowance for travel by private automobile, payable by state agencies, shall be established and regulated by the Oregon Department of Administrative Services within any limits that may be prescribed by statute. The department shall prescribe by rule the conditions under which allowances for travel by private automobile may be made. [Amended by 2005 c.22 §215]

292.230 Policy on out-of-state travel; guidelines; use of travel awards; rules. (1) It is the policy of the state that all out-of-state travel by state agency personnel shall be allowed only when the travel is essential to the normal discharge of the agency's responsibilities. Out-of-state travel shall be conducted in the most efficient and cost-effective manner resulting in the best value to the state. The travel must comply with requirements of rules adopted under subsection (5) of this section. State agencies shall adhere to the following guidelines when using out-of-state travel:

(a) All out-of-state travel must be for official state business.

(b) Use of out-of-state travel must be related to the agency's scope of responsibilities.

(c) Each state agency is charged with the responsibility for determining the necessity and justification for and method of travel.

(d) Each state agency shall make every effort possible to minimize employee time spent on out-of-state travel.

(2) Notwithstanding any other law, including but not limited to ORS 243.650 to 243.782, it is the policy of the state that travel awards earned while conducting state business shall be used to reduce the costs of state travel expenses except as otherwise required as a prerequisite to receipt of federal or other granted funds. The use of travel awards obtained while conducting state business for personal travel constitutes personal gain from state employment and violates ORS 244.040.

(3) The Oregon Department of Administrative Services shall work with commercial airlines to make travel awards available to the state rather than individual employees.

(4) Notwithstanding subsection (5) of this section, each state agency shall manage all travel awards earned by personnel employed by them who travel for the state. Agencies shall establish procedures in accordance with Oregon Department of Administrative Services rules to monitor the earning and use of awards by individual employees.

(5) The Oregon Department of Administrative Services shall adopt by rule standards regulating out-of-state travel including but not limited to:

(a) Limiting the number of officers and employees who may attend the same meeting;

(b) Requiring state agencies to establish practices for travel that are consistent with the agency's resources;

(c) Requiring agencies to develop information sharing for reporting and other aspects that have benefits to more than one agency;

(d) Developing telecommunication resources to be used in lieu of travel;

(e) Requiring agency administrators or their designees, as designated in writing, to approve out-of-state travel; and

(f) Setting up procedures to audit agency use of travel and travel awards including appropriate sanctions for misuse.

(6) As used in this section:

(a) "Official state business" means activity conducted by any agency personnel that has been authorized by that agency in support of approved state programs.

(b) "Out-of-state travel" means all travel from a point of origin in Oregon to a point of destination in another state and return therefrom.

(c) "Travel award" means any object of value awarded by any business providing commercial transportation or accommodations to an individual or agency which can be used to reduce the cost of travel including, but not limited to, frequent flier miles, discounts or coupons. [Amended by 1993 c.750 §1]

292.240 [Repealed by 1953 c.623 §3]

292.250 Reimbursement for use of privately owned motor vehicle on official business. (1)

No person shall be reimbursed by the state for the use on official or state related business of a privately owned motor vehicle at a rate to exceed the rate established and regulated by the Oregon Department of Administrative Services. Reimbursement shall be paid only for distances actually traveled and trips made in the performance of official or state related duties.

(2) The rate prescribed in subsection (1) of this section shall be deemed to be in full compensation for all and every expense, charge or liability incurred through the use of the privately owned motor vehicle, including the cost of gasoline, oil, repair parts, depreciation, taxes, insurance and maintenance and upkeep of every kind and nature.

(3) No law enacted before August 2, 1951, allowing the recovery by any person of necessary and reasonable traveling expenses incurred in the performance of official duties shall be construed to authorize payment by the state for the use of a privately owned motor vehicle on a basis in excess of the rate provided in subsection (1) of this section. [Amended by 1965 c.8 §1; 1971 c.153 §2; 1971

c.244 §1; 1973 c.224 §1; 1974 c.10 §1; 1975 c.525 §1; 1979 c.179 §1]

Proposed:

.124 Provisions for Elected Officials and Members of Boards and Commissions

Elected officials are encouraged to use state per diems for meals and lodging, but may opt to claim reimbursement for actual and necessary travel expenses incurred in the performance of official state duties. Except as otherwise provided by law, members of state boards and commissions (including those individuals employed in full-time public service) may receive reimbursement for actual and necessary travel expenses incurred in the performance of official state duties. Gratuities up to 15% of actual meal costs are permissible if reasonable and necessary for the conduct of state business and need to be documented on the receipt. This is in addition to any per diem compensation that may be provided by statute that is not intended as a travel reimbursement. This special provision applies to both instate and out-of-state travel.

Now:

Provisions for Elected Officials and Members of Boards and Commissions

.108 Elected officials are encouraged to use state per diems for meals and lodging, but may opt to claim reimbursement for actual and necessary travel expenses incurred in the performance of official state duties. Except as otherwise provided by law, members of state boards and commissions (including those individuals employed in full-time public service) may receive reimbursement for actual and necessary travel expenses incurred in the performance of official state duties. Gratuities up to 15% of actual meal costs are permissible if reasonable and necessary for the conduct of state business and need to be documented on the receipt. This is in addition to any per diem compensation that may be provided by statute that is not intended as a travel reimbursement. This special provision applies to both instate and out-of-state travel and is in addition to all other applicable provisions of this policy.

THEODORE R. KULONGOSKI
GOVERNOR



June 15, 2006

Jan McComb, Executive Officer
State Board of Education
255 Capitol St. NE
Salem, OR 97310

Dear Ms. McComb:

Thank you for your assistance in managing Governor Kulongoski's State Board of Education.

In your work with the board, I would like to clarify the reimbursement policy for board member expenses.

ORS 292.495 (attached) states that board members "may receive actual and necessary travel or other expenses actually incurred in the performance of their official duties within the limits provided by law or by the Oregon Department of Administrative Services under ORS 292.210 to 292.250."

Department of Administrative Service's Oregon Accounting Manual (OAM), states that board and commission members, "may receive reimbursement for actual and necessary travel expenses incurred in the performance of official state duties."

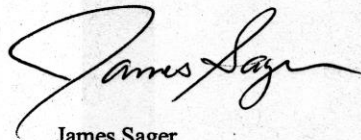
Governor Kulongoski directs that his boards and commissions follow the DAS guidelines for employees found in the Oregon Accounting Manual. I would like the State Board of Education to similarly follow OAM guidelines, with one exception.

Section .113 of the OAM states "a meal per diem during non-overnight travel is not permitted for travel within a 25-mile radius of a traveler's official workstation."

Jan McComb
June 15, 2006
Page Two

This has been interpreted to mean that a board member cannot be reimbursed for a meal taken in their home town, even when that person is engaged in activities as a board member. Because members represent Congressional districts, it is likely that one of the board members will reside in Salem, where board meetings are held. There has been a longstanding practice of the board sharing dinner the first night of the board meeting. While they do not discuss matters before the board, they do discuss board process and education issues, generally. The DAS policy would create a situation where all board members are reimbursed for their meal, except if a member resides in Salem. The policy exception cited above allows reimbursement for members who reside in Salem.

Sincerely,



James Sager
Education, Workforce & Revenue Policy Advisor
Office of the Governor

JS:cy
Attachment