



TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

ED 74-2025

CHAPTER 471

EMPLOYMENT DEPARTMENT

FILED

09/26/2025 4:07 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amending Paid Leave Oregon rules regarding representation in appeals

EFFECTIVE DATE: 10/01/2025 THROUGH 03/29/2026

AGENCY APPROVED DATE: 09/17/2025

CONTACT: Jacob Parpart
503-947-1471
OED_Rules@employ.oregon.gov

875 Union St NE
Salem, OR 97311

Filed By:
Jacob Parpart
Rules Coordinator

NEED FOR THE RULE(S):

These temporary administrative rule amendments are needed to ensure the proper administration of the Paid Leave Oregon program. During the 2025 legislative session, changes were made to Oregon Revised Statute (ORS) 657B.410 through the passing of SB 858 to allow a "person," defined to include the State of Oregon, to be represented by legal counsel or "any other representative that the person authorizes to represent the person as prescribed by the director by rule." This change in statute has resulted in the need to amend administrative rules relating to contested case hearings to clarify that employees of the Oregon Employment Department may represent Paid Leave Oregon in administrative hearings without prior authorization from the Attorney General, as previously required by ORS 183.452. OAR 471-070-8050 needs amendment to broaden the scope of who may be authorized to represent a person in a hearing, based on the changes to ORS 657B.410.

JUSTIFICATION OF TEMPORARY FILING:

Without taking action to amend these rules through the temporary rulemaking process, OAR 471-070-8000 and OAR 471-070-8050 will not align with the changes made to ORS chapter 657B.410 by SB 858 (2025) that become effective on September 26, 2025. As a consequence, claimants, employers and other persons may not be aware that they may authorize a representative to represent them beyond those individuals currently listed in the rules. It is therefore important to amend the rules to broaden the scope of who may be authorized to represent a person a contested case hearing. In addition, filing these temporary rules will allow Paid Leave Oregon to avoid unnecessarily having to obtain Attorney General approval to have agency representatives represent the program in a hearing. Given that Paid Leave Oregon is no longer required to obtain the Attorney General's authorization for employees to represent the Department in an administrative hearing, this must also be reflected in the relevant administrative rules at the time the bill becomes effective to be consistent with statutory requirements. Ultimately, the Paid Leave Oregon program's objective in filing these temporary rules is to make immediate needed changes in program administrative rules to create transparency for Oregon employers and employees around requirements for contested case hearing representation.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Paid Leave Oregon statutes - ORS chapter 657B (https://www.oregonlegislature.gov/bills_laws/ors/ors657B.html)

Contested Case Proceedings statutes – ORS chapter 183
(https://www.oregonlegislature.gov/bills_laws/ors/ors183.html)

Oregon Laws 2025, chapter 93 (SB 858) (Relating to the administration of the family and medical leave insurance program; and prescribing an effective date Bill)
(<https://olis.oregonlegislature.gov/liz/2025R1/Downloads/MeasureDocument/SB858/Enrolled>)

RULES:

471-070-8000, 471-070-8050

AMEND: 471-070-8000

RULE TITLE: Appeals: Department Representation in Hearing

RULE SUMMARY: This administrative rule is amended to remove the requirement for the Attorney General to provide approval for the agency to represent itself in Paid Leave Oregon administrative hearings based on the changes made to ORS 657B.410 by Senate Bill (SB) 858 (2025).

RULE TEXT:

In accordance with the provisions of ORS 657B.410, an officer or employee of the Oregon Employment Department is authorized to appear on behalf of the department in the following types of hearings conducted before the Office of Administrative Hearings:

- (1) Administrative decisions related to Paid Leave Oregon benefits under ORS 657B.100 and 657B.332 and applicable rules.
- (2) Administrative decisions related to Paid Leave Oregon contributions under ORS 657B.130 to 657B.175 or 657B.370 and applicable rules.
- (3) Administrative decisions related to Paid Leave Oregon penalties imposed under ORS 657B.910 or 657B.920 and applicable rules.
- (4) Administrative decisions related to Paid Leave Oregon employer assistance grants under ORS 657B.200 and applicable rules.
- (5) Administrative decisions related to PFMLI equivalent plans under ORS 657B.210 and applicable rules.

STATUTORY/OTHER AUTHORITY: ORS 657B.340, 657B.410

STATUTES/OTHER IMPLEMENTED: 657B.410

AMEND: 471-070-8050

RULE TITLE: Appeals: The Hearing

RULE SUMMARY: This administrative rule is amended to remove the requirement for the Attorney General to provide approval for the agency to represent itself in Paid Leave Oregon administrative hearings, and to broaden who can represent a person in a hearing based on the changes made to ORS 657B.410 by SB 858 (2025).

RULE TEXT:

- (1) The purpose of the hearing is to inquire fully into the matters at issue and to make a decision on the basis of the evidence shown at the hearing.
- (2) No administrative law judge shall conduct a hearing if the administrative law judge has any private interest in the outcome of the hearing or holds any bias or prejudice which would impair a fair and impartial hearing. All testimony at any hearing before an administrative law judge shall be under oath or affirmation.
- (3) The Office of Administrative Hearings shall make an audio, video or stenographic record of the hearing.
- (4) The administrative law judge shall conduct and control the hearing. The administrative law judge shall determine the order of the presentation of evidence, administer oaths, examine any witnesses, and may, either on the administrative law judge's own motion or a party's or the department's request, exclude witnesses from the hearing room. Participants, or their authorized representatives, shall have the right to give testimony and to call and examine witnesses. For purposes of this rule, "participant" includes any party and the department.
- (5) Hearings are not open to the public and are closed to non-participants in the hearing. The administrative law judge may exclude witnesses from the hearing, except for a party, a party's authorized representative, expert witnesses, the agency representative, one agency officer or employee, and any persons authorized below to attend.
 - (a) An officer or employee of the department may represent the department in a hearing requested under OAR 471-070-8005, in accordance with ORS 657B.410 and OAR 471-070-8000.
 - (b) In accordance with ORS 657B.410, a party may appear on their own behalf or may be represented by legal counsel or by any other representative that the person authorizes to represent the person, including a claimant designated representative as described under OAR 471-070-1250. The administrative law judge may require representatives other than legal counsel to provide written authorization to appear for such person. When a party makes a general appearance at a hearing, defects in notice are waived.
 - (c) When a party is not represented at the hearing by an attorney, paralegal worker, legal assistant, union representative, or person otherwise qualified by experience or training, the administrative law judge shall explain the issues involved in the hearing and the matters that the unrepresented party must either prove or disprove. The administrative law judge shall ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary for consideration of all issues properly before the administrative law judge in the hearing.
- (6) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded but erroneous rulings on evidence shall not preclude the administrative law judge from entering a decision unless shown to have substantially prejudiced the rights of a party. All other evidence of a type commonly relied upon by reasonably prudent persons in conduct of serious affairs shall be admissible. If a question of privilege arises, the administrative law judge shall fully and clearly inform the party of any rights as to such privilege and deal with procedural problems created by the existence of such issue in a way which protects the party's person's right to a fair hearing. Objections to evidentiary offers may be made and shall be noted in the record. Any part of the evidence may be received in written form. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.
- (7) All evidence shall be offered and made a part of the record in the case and, except for matters stipulated to and for notice taken, no other factual information or evidence shall be considered by the administrative law judge in making the decision. The experience, technical competence, and specialized knowledge of the administrative law judge may be utilized in the evaluation of the evidence presented. The administrative law judge may receive evidence deemed relevant and essential by the administrative law judge to a fair disposition of the issues.
- (8) The administrative law judge may take official notice of judicially cognizable facts. The administrative law judge may

take notice of general, technical, or scientific facts within the administrative law judge's specialized knowledge and may take notice of documents, records, and forms retained within the department's files. The administrative law judge shall notify the participants of any official notice taken during the hearing or in the decision prior to such decision becoming final. Participants shall be afforded an opportunity to contest the material so noticed during the hearing or prior to the administrative law judge's decision becoming final.

(9) The administrative law judge shall render a decision on the issue and law involved as stated in the notice of hearing. The administrative law judge's jurisdiction and authority is confined solely to the issue(s) arising under the Paid Leave Oregon laws in ORS chapter 657B.

STATUTORY/OTHER AUTHORITY: ORS 657B.340, ORS 657B.410, 183.630

STATUTES/OTHER IMPLEMENTED: ORS 657B.410