

BYLAWS

Article 1

AGENCY NAME, AUTHORITY, MISSION, AND BASIC DEFINITIONS

- (1) **Name.** The name of this agency is the Oregon Public Defense Commission (“OPDC”).
- (2) **Authority.** The OPDC was established pursuant to ORS 151.213, as amended by SB 337 (2023), effective January 1, 2024. The OPDC is governed by a 13-member commission (“Commission Members”), which includes nine Voting Members and four Non-voting Members.
- (3) **Mission.**
 - (a) The OPDC’s mission is to establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution, Oregon and national standards of justice, and Oregon statutes.
 - (b) To achieve this mission, the Commission Members shall ensure furtherance of the goals articulated in ORS 151.216 by adopting policies, procedures, standards, and guidelines regarding those mandates, including the public defense service delivery model; public defense provider caseload and workload; qualification and performance standards; compensation, fees, expenses, and reimbursement; budget, resources, and funding; training, supervision, and oversight; data collection; and eligibility for court appointed counsel. The Commission adopts the principles outlined in the Oregon DEI Action Plan [\[hyperlink\]](#) in all areas under its jurisdiction and strives to ensure systems that recognize diversity and afford justice equitably and inclusively to all persons.
 - (c) To further achieve this mission the Commission Members, Executive Director, and OPDC Staff shall consider the perspectives of public defense providers, persons with lived experience in, or from communities impacted by the programs in areas under OPDC’s jurisdiction and other members of the public with an interest in the provision of services provided by those programs.
- (4) **Basic Definitions.** The following definitions govern usage in these Bylaws:
 - (a) “Commission” means Voting and Non-voting Commission Members acting in their oversight capacity.
 - (b) “Staff” means OPDC employees other than the Executive Director.
 - (c) “Executive Director” means the person selected under ORS 151.213 ~~by the Commission~~ to carry out the duties set forth in ORS 151.219 and in these Bylaws.
 - (d) “Oversight” means exercising governance, supervision, direction, and guidance to the Oregon Public Defense Commission pursuant to ORS Chapter 151; it does not include interactions between the Executive Director or staff and Non-voting Members in their individual, contract, or legislative capacities.

Article 2

COMMISSION MEMBERSHIP

- (1) Membership.** Membership is defined by ORS 151.213.
- (2) Terms of Office.** Terms of office are four years, except for the initial terms created by SB 337 (2023) to stagger appointments. Terms begin on January 1 in the first year and expire on December 31 in the final year.
- (3) Appointments.** Appointments are made pursuant to ORS 151.213. Commission Members may be reappointed but may serve no more than two consecutive four-year terms. Commission Members appointed to fill a vacancy assume the term for the Member they replaced. If a vacancy occurs and is not filled by the appointing authority within 45 days the remaining Voting Members of the Commission shall, by a majority vote, select a Member to fill the vacancy for the remainder of the term.
- (4) Termination.** A Commission Member may be removed pursuant to ORS 151.213(3) and ORS 182.010.
- (5) Resignation.** A Commission Member who seeks to resign shall provide written notice to the appointing authority, the Chair of the OPDC, and the Executive Director.
- (6) Onboarding and Training.** New appointees shall attend an onboarding session as determined by the Executive Director. Members shall attend all trainings as required by Oregon law.
- (7) Chair and Vice Chair.**
 - (a) Voting Members shall elect, by majority vote, a Chair and Vice Chair of the Commission.
 - (b) The Chair is the public liaison of the Commission Members. It shall be the responsibility of the Chair or other person as directed by the Chair to speak on behalf of the Commission Members for official information concerning the OPDC.
 - (c) The Chair shall lead and manage Commission meetings, shall coordinate the planning of Commission meeting agendas with the Executive Director, and shall join with the Executive Director to present the OPDC's annual budget to the Legislative Assembly.
 - (d) The Vice Chair shall lead and manage Commission meetings when the Chair is unavailable and support the Chair in furtherance of their responsibilities as requested.
- (8) Ethics and Conflicts of Interest.**
 - (a) Commission Members shall comply with the government ethics provisions of ORS Chapter 244.
 - (b) A Commission Member has an actual financial conflict of interest if the proposed action would provide a financial benefit or detriment to the Member, the Member's relative, or any business with which the Member or their relative is associated. When met with an actual conflict of interest, the Member must announce publicly the nature of the conflict and refrain from discussion on the issue. The Member may not vote on the issue from

which the conflict arises unless the Member's vote is necessary to meet the minimum number of votes required to take official action.

- (c) A Member has a potential conflict of interest if the proposed action could provide a financial benefit or detriment to the Member, the Member's relative, or any business with which the Member or their relative is associated. When met with a potential conflict of interest, the Member must announce publicly the nature of the conflict but may continue to discuss the issue. The Member may vote on the issue from which the potential conflict arises.

(9) Communications Not Subject to Public Meeting Laws.

- (a) Commission Members may communicate orally or in writing with other Commission Members to the extent that communication does not violate ORS Chapter 192.
- (b) Communications with OPDC staff.
 - (i) Commission Members may communicate orally or in writing with OPDC staff on non-substantive issues, such as scheduling and IT support.
 - (ii) When acting in an oversight capacity Commission Members should not communicate orally or in writing with OPDC staff members regarding agency business without prior authorization from the Executive Director. The Executive Director or designee shall communicate such authorization in writing to the staff member and the Commission Member, including by email.
 - (iii) Individual Commission Members, in their personal capacities, may communicate orally or in writing with OPDC staff members; when doing so they shall make it clear that they do not speak for the Commission.
 - (iv) Nothing in this section is meant to prohibit OPDC staff members from disclosing to Commission Members information the staff member reasonably believes to be evidence of a violation of any federal, state, or local law, rule, or regulation or mismanagement, gross waste of funds, or abuse of authority, or substantial and specific danger to public health and safety resulting from OPDC action.

(10) Compensation and Expenses.

- (a) Voting and Non-voting Members are entitled to compensation and expenses as provided in ORS 151.213(8) and ORS 292.495.
- (b) Members entitled to compensation shall submit the information required by standards and procedures adopted by the Executive Director.
- (c) Indemnification. OPDC Commission Members, officers, employees, and agents shall be indemnified in the manner provided by ORS 30.285.

ROLES AND RESPONSIBILITIES GENERALLY

(1) Commission Members. Commission Members are responsible for governing and providing oversight to the OPDC, pursuant to the requirement of ORS 151.213 and 151.216.

(a) Commission Members shall:

- (i) Review, and provide input prior to an approval vote, the policies, procedures, standards, and guidelines required by ORS 151.216 regarding contracting, funding, compensation of counsel, resources, operations, caseloads and statewide workloads, data collection, training and supervision of appointed counsel, costs, overhead, pre-authorization requirements, financial eligibility of represented persons with appointed counsel, compensation plans, classification systems, and affirmative action plans.
- (ii) Review the budget of the Commission and provide input before any approval vote;
- (iii) Review the Commission's annual report prior to the vote by Voting Members;
- (iv) Meet as needed to carry out their responsibilities.
- (v) Inform the Executive Director and the Chair as soon as practicable of an inability to attend a scheduled, special, or emergency meeting. The Chair shall maintain a record of absences and any stated reasons for such absences and may communicate the information to the appointing authority.

(b) Voting Commission Members shall:

- (i) Approve by majority vote the policies, procedures, standards, and guidelines required by ORS 151.216 before they take effect;
- (ii) Approve by majority vote the budget of the Commission before submission to the Legislative Assembly;
- (iii) Set biennial performance expectations for the Executive Director and require a performance review at least every two years in September in the odd numbered years based on those expectations. The performance review may include recommendations.
- (iv) Approve by majority vote the Commission's annual report prior to its submission pursuant to ORS 151.219.

(c) Commission Members shall not make any decision regarding the handling of any individual case; have access to any case file or interfere with the Executive Director or OPDC staff in carrying out professional duties involving the legal representation of public defense clients.

(d) Individual Commission Members, in their personal capacities, may advocate for or against legislation before the Legislative Assembly; when doing so they shall make it clear that they do not speak for the Commission.

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- (e) Individual Commission Members may, in their personal capacities, communicate with the press, members of the public, or both; when doing so Members shall make it clear that they do not speak for the Commission. An individual Commission Member may not act as spokesperson for the Commission unless authorized to do so in writing by the Chair.

(2) Executive Director.

- (a) The Executive Director is the chief executive officer for the Commission, the public liaison for OPDC, and the primary liaison between the Commission Members (voting and non-voting) and OPDC staff. The Executive Director shall ensure the agency carries out the policy directives established by the Commission.
- (b) The Executive Director is appointed and retained as provided by ORS 151.213.
- (c) The Executive Director of the Commission shall carry out the duties set out in ORS 151.219.
- (d) The Executive Director shall prepare an annual report covering the topics listed in Art. 3(1)(a)(i) and (ii) and submit it by December 31 of the calendar year as required by ORS 151.219 .

(3) OPDC Staff.

- (a) OPDC staff is responsible for agency administration and operations, and it performs its actions through the authority of its Executive Director, as defined by ORS 151.219.
- (b) OPDC staff shall carry out the duties set out in ORS 151.216.
- (c) OPDC auditors shall present an internal audit report to the Commission at least yearly.

Article 4

MEETINGS

(1) Public Meeting Laws. All meetings and executive sessions shall comply with public meeting laws pursuant to ORS Chapter 192.

(2) Regular Meetings.

- (a) Schedule and Notice. Commission Members shall meet according to a regular schedule, established at the first meeting of each calendar year and adjusted as necessary throughout the year. Notice of meetings shall be given to Members and posted on the OPDC website as early as practicable.
- (b) Agendas.
 - (i) Regular Commission meeting agendas will be finalized by the Executive Director and the Chair of the Commission. Agendas shall be determined with a focus on furthering the Commission’s mission as set out in Art. I of these Bylaws.

- (ii) Any Voting or Non-voting Member of the Commission may request the Chair to include an item on the agenda of an upcoming meeting no later than 10 business days prior to the meeting. If the item does not appear on the agenda, a majority of Voting Members may place the item on the agenda for the subsequent meeting.
 - (iii) Items to be voted on at an upcoming meeting shall be labeled as action items on the meeting agenda. All action items shall include time for discussion before a vote occurs.
 - (iv) OPDC staff shall publish the agenda to Commission Members and the public one week in advance of the meeting unless good cause is shown, as jointly determined by the Executive Director and the Chair.
 - (v) The Executive Director and the Chair, in agreement, may amend the agenda up until the start of the meeting. No action items may be added within one week of the meeting.
- (c) Materials.
- (i) OPDC staff shall publish materials to Commission Members and the public one week in advance of the meeting in which they are to be considered unless good cause is shown, as jointly determined by the Executive Director and the Chair.
 - (ii) OPDC staff shall prepare meeting materials in plain English. Technical language shall be defined and clarified for ease of access to non-technical readers. All acronyms shall be explained in full the first time they are used in a document.
- (d) Conduct of Regular Meetings.
- (i) The Commission may conduct meetings in-person, virtually, or through a combination of in-person and virtual attendance. All meetings shall afford the public the opportunity to access and attend the meeting virtually.
 - (ii) A majority of Voting Members constitutes a quorum of the Commission for the transaction of business at regular commission meetings. A quorum of the Commission is required to decide an action item and to deliberate on or discuss items that are likely to come before the Commission as an action item. A quorum is not required to receive testimony and similar input from staff or stakeholders and to ask questions of the person presenting.
 - (iii) Virtual meetings: cameras and identification. To ensure accurate assessment of a quorum during virtual meetings, Commission Members shall have their names posted and, to the extent practicable, their cameras on. All Voting Members shall have cameras on during a vote. Commission staff shall have names posted but may turn cameras off.
 - (iv) The Commission will not use Robert's Rules of Order in conducting a meeting but will follow the procedural rules set out in these bylaws.
 - (v) The Chair shall lead and manage the meeting, or the Vice-chair in the Chair's absence. Public comment may be allowed and shall be posted on the agenda when authorized.

Deliberation of issues will be conducted only by Commission Members, but the Commission may authorize OPDC staff or members of the public to provide information on any topic.

(vi) Motions.

- a. Any Voting Member of the Commission may make a motion regarding a posted action item, and that motion must receive the endorsement of a second Voting Member of the Commission before a vote can occur.
- b. Once a motion has been made and received an endorsement from a second Voting Member, there shall be a period for discussion.
- c. Following the discussion, the motion must be voted upon unless (1) the Member who made the motion withdraws the motion, or (2) the Member who provided the second endorsement withdraws that endorsement and the motion fails to get another second endorsement.

(vii) Voting.

- a. Commission Members must be present to vote.
- b. Commission Members must vote yea or nay, as no abstentions are allowed. Voting Members may explain on the record their reasons for a yea or nay vote or for asserting a conflict of interest.
- c. At a virtual meeting, or if any Voting Member is attending virtually, the Chair shall conduct a roll-call vote. If all Voting Members who are attending are in person, the Chair shall inquire whether there are any objections to adopting the motion under consideration. If no objections are made, the motion will pass, and it will be recorded as endorsed by all Voting Members present. If any Member of the OPDC objects to the motion, a roll call vote will be held.

(viii) Meeting Records and Minutes. All meeting materials, minutes, transcripts, and public comment shall be stored by OPDC and placed on the OPDC website for public access as soon as practicable.” A link to the meeting video shall be published on the website within five days after the meeting.

(ix) OPDC staff shall provide and publish one or more mechanisms whereby persons requiring reasonable accommodations to fully participate in a meeting may request such accommodations no later than the close of business 48 hours prior to the meeting. OPDC staff shall take all reasonable steps to ensure that such accommodations are provided.

(e) Public Comment.

- (i) Oral. Members of the public may apply to the Commission for the opportunity to comment in person at Commission meetings. Such applications must be received by the Commission by the close of business the business day prior to the date scheduled for the meeting. The Chair shall allow all reasonable requests for public comment.

Public comment shall be limited to 3 minutes unless, in the Chair's sole discretion, more time is allowed.

- (ii) Written. Members of the public may submit written comments regarding items on the agenda of upcoming meetings.
- (iii) Comment regarding action items shall be submitted no later than two (2) business days prior to the meeting at which the item is to be considered.
- (iv) Submissions received by the close of business two (2) business days in advance of the meeting in which they are to be considered shall be submitted to Voting and Non-voting Members and posted to the public on the OPDC website prior to the meeting.
- (v) Submissions received after a meeting and within 48 2 business days hours from the posted meeting time. shall be submitted to Voting and Non-voting Members and posted to the public on the OPDC website as soon as practicable; in addition, such comments shall be included in the material for the subsequent OPDC regular meeting.

(3) Informational Meetings.

- (a) Authority. The Chair of the Commission may call special meetings of the Commission to gather information relevant to its mission. These may include ~~special~~ meetings dedicated to gathering input from members of the public, including those with lived experience in, or from communities impacted by the systems under the Commission's jurisdiction with regards to specific issues or regions of the State.
- (b) Schedule and Notice. Notice of informational meetings shall be given to Members and posted on the OPDC website as early as practicable.
- (c) Agendas. Agendas shall be prepared in accordance with sec. (2)(b) except that the agenda may not contain any action items.
- (d) Materials. Materials shall be provided to members and posted on the OPDC website in accordance with section (2)(c).
- (e) Conduct of Informational Meetings. Informational Meetings shall be conducted in accordance with sec. (2)(d) with the following exceptions:
 - (i) Action items Commission Members may not make motions calling for votes and may not vote on action items during an Informational Meeting.
- (f) Public input
 - (i) Public input: oral. Members of the public who want to provide oral input are encouraged to register in advance as provided in conjunction with the meeting notice on the OPDC website; at the discretion of the Chair, members of the public who have not registered in advance may be allowed to provide oral input at the meeting.
 - (ii) Public input: written. Members of the public may submit written comments regarding items on the agenda of an upcoming informational meeting. Such written input shall be

submitted no later than two (2) business days after the meeting for which the comment is relevant.

(4) Emergency Meetings.

(a) Authority.

- (i) The Chair may call an emergency meeting only if there is an actual emergency that renders impractical the twenty-four-hour notice required for a special meeting.
- (ii) An emergency is a situation in which adhering to the notice requirements of this Article increases the likelihood or severity of injury or damage to persons or property, immediate financial loss, or disruptions to the provision of public defense services that require an immediate response.

(b) Schedule, Notice and Materials.

- (i) Notice of the meeting, the agenda, and any meeting materials shall be provided to all Members and posted to the public on the OPDC website as early as practicable prior to the meeting.
- (ii) The emergency meeting notice shall state the nature of the emergency and provide, at a minimum, the meeting date, time, place, and (in the event of a virtual meeting) access information. Notice of the meeting shall be posted on the OPDC website as quickly as possible.
- (iii) OPDC staff shall prepare meeting materials in plain English. Technical language shall be defined and clarified for ease of access to non-technical readers. All acronyms shall be explained in full the first time they are used in a document.

(c) Agendas.

- (i) Emergency meeting agendas will be finalized by the Executive Director and the Chair of the Commission. Agendas shall be determined with a focus on furthering the Commission's mission as set out in Art. I of these Bylaws.
- (ii) Items to be voted on at an emergency meeting shall be labeled as action items on the meeting agenda. All action items shall include time for discussion before a vote occurs.
- (iii) OPDC staff shall publish the agenda to Commission Members and the public in conjunction with the notice of the emergency meeting unless good cause is shown, as jointly determined by the Executive Director and the Chair.

(d) Conduct of emergency meetings. Emergency meetings shall be conducted in accordance with sec. (2)(d), and the reason for the emergency shall be stated at the outset of the meeting.

(e) Public comment. Members of the public may apply to the Commission for the opportunity to comment in person at an emergency meeting. Such applications must be received by the Commission by two (2) hours prior to the emergency meeting. Members of the public

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may submit written comments regarding matters discussed at the emergency prior to the meeting or up to 2 business days from the posted meeting time.

- (5) Executive Sessions.** The Commission may meet in executive session pursuant to ORS 192.660, and the notice and agenda shall state the provision of law authorizing the executive session.

Article 5

SUBCOMMITTEES, AUDIT COMMITTEE, EXTERNAL ADVISORY GROUPS

(1) Subcommittees

- (a) The Commission Chair, in consultation with OPDC staff and Voting and Non-voting Members of the Commission, may create standing or *ad hoc* subcommittees to advise the Commission. The Chair shall put on the record the members of the subcommittee and the nature of the subcommittee's charge.
- (b) A subcommittee must have at least three, but no more than four, Voting Members. The Chair shall appoint subcommittee members and may ask for volunteers from among Voting and Non-voting Members.
- (c) Each subcommittee shall elect a chair to conduct the business of the subcommittee and to report to and consult with the Commission Chair.
- (d) The subcommittee chair may invite Voting and Non-voting Members, OPDC staff, legislators, staff of Oregon executive, judicial and legislative agencies, and members of the public to attend subcommittee meetings in an advisory capacity. Consideration will be given to gathering input from OPDC providers and persons with lived experience in, or communities impacted by, programs under OPDC's jurisdiction.
- (e) Subcommittee meetings.
 - (i) All subcommittee meetings shall comply with public meeting laws pursuant to ORS Chapter 192.
 - (ii) The subcommittee chair may schedule meetings as necessary to accomplish subcommittee business.
 - (iii) Agendas.
 - a. Subcommittee meeting agendas will be finalized by the subcommittee chair with a focus on furthering the Commission's mission as set out in Art. I of these Bylaws.
 - b. By 4 business days prior to a meeting, the subcommittee chair shall create an agenda. Items to be voted on at an upcoming subcommittee meeting shall be labeled as action items on the meeting agenda. At the request of any Voting or Non-voting Member of the subcommittee, up to and including the start of a

meeting, the subcommittee chair may amend the agenda to include an additional non-action item.

- c. OPDC staff shall publish the agenda and meeting materials by 3 business days prior to a meeting unless good cause is shown, as determined by subcommittee chair.

(iv) Materials.

- a. OPDC staff shall publish materials to subcommittee members and the as soon as practicable in advance of the meeting unless good cause is shown, as jointly determined by the Executive Director and the Chair.
- b. OPDC staff shall prepare materials in plain English. Technical language shall be defined and clarified for ease of access to non-technical readers. All acronyms shall be explained in full the first time they are used in a document.

(v) Conduct of subcommittee meetings.

- a. Subcommittee meetings shall be conducted in accordance with the provisions of Art. 4(2)(d)(i) and (iii)-(iv).
- b. A majority of voting members constitutes a quorum of the subcommittee. A quorum of the subcommittee is required to decide an action item or to deliberate toward making a decision.
- c. Any Voting Member of the subcommittee may make a motion regarding a posted action item. Motions shall be handled in accordance with the provisions of Art. 4(2)(d)(vi) b and c.
- d. Votes shall be handled in accordance with the provisions of Art. 4(2)(d)(vii), with the subcommittee chair assuming the role given the Commission Chair in those provisions.
- e. Meeting records and minutes shall be handled in accordance with the provisions of Art. 4(2)(d)(viii).

(2) **Audit Committee.** OPDC may approve an audit committee charter and audit committee to assist OPDC auditors in their audit function. Any audit committee shall include one Voting Member of the Commission.

(3) **Advisory Committees and Workgroups.**

- (a) The Executive Director may, after consultation with the Chair, create advisory committees and workgroups as needed.
- (b) At the Executive Director's discretion, advisory committees and workgroups may include Voting and Non-voting Members, OPDC staff, legislators, staff of Oregon executive, judicial and legislative agencies, and members of the public. Consideration will be given to gathering input from OPDC providers and persons with lived experience in, or communities impacted by, programs under OPDC's jurisdiction.

Article 6

GRIEVANCE PROCEDURE

Persons aggrieved by OPDC actions or inaction should seek redress as follows:

- (1) If the complaint is a consequence of OPDC policy, a letter should be addressed to the Chair of the Commission requesting the complaint to be placed on the Commission's meeting agenda; subject to the provisions of Art. 4(7)(a), the Chair shall have the sole discretion either to place the item on the agenda of an upcoming meeting or to refer the matter to the Executive Director for investigation.
- (2) If the complaint relates to administrative practices of the OPDC, the complainant should address a letter to the Executive Director of the OPDC; a complainant who is unsatisfied with how the complaint is handled may address a letter to the Chair of the Commission requesting the complaint to be placed on the Commission's meeting agenda; the Chair shall have the sole discretion either to place the item on the agenda of an upcoming meeting or to refer the matter to the Executive Director to report to the Chair on resolution of the complaint.
- (3) If a Voting or Non-voting Member is approached by an aggrieved person the Member should direct the person to the correct course of action to be pursued; the Member shall not discuss the complaint with the aggrieved person.
- (4) All communications covered by sub-sections (1) through (3) shall be in writing. A Member who is approached by word of mouth shall so inform the aggrieved persons and shall send a memorandum to the Chair identifying the aggrieved persons and indicating the time of the conversation and the instructions conveyed by the Member to the aggrieved person.

Article 7

AMENDMENTS

These bylaws may be amended by a two-thirds vote of the Voting Members at any meeting provided the topic is posted as an action item and the proposed language is provided to all Voting and Non-voting Members one week prior to the meeting.