

Members:

Susan Mandiberg, Chair
Leslie Kay
Philippe Knab
Haley Olson



Executive Director:

Ken Sanchagrin

**Oregon Public Defense Commission
Governance, Policy, and Standards Subcommittee Meeting**

*Meeting will occur virtually
Thursday, May 28, 2026
4:00pm – 5:30pm PST
Via Zoom**

Administrative Announcement

This is a public meeting, subject to the public meeting law and it will be recorded. Deliberation of issues will only be conducted by Commission members unless permitted by the Chair. Individuals who engage in disruptive behavior that impedes official business will be asked to stop being disruptive or leave the meeting. Additional measures may be taken to have disruptive individuals removed if their continued presence poses a safety risk to the other persons in the room or makes it impossible to continue the meeting.

AGENDA

Approx. Time	Item	Lead(s)
4:00-4:05	Welcome and Call to Order	Chair Mandiberg
4:05-4:25	Update: OPDC Complaint Policy	Heather Kessinger
4:25-4:45	Briefing: Oregon Administrative Rules	Dacia Smith
4:45-5:10	Discussion: Board Key Performance Metrics: Term and Concept Definitions	Chair Mandiberg
5:10-5:30	Discussion: Board Annual Performance Review of OPDC Executive Director	Commissioner Knab
5:30	**Adjourn**	

**To join the Zoom meeting, click this link: <https://zoom.us/j/98794644646>. This meeting is accessible to persons with disabilities or with additional language service needs.*

Our Zoom virtual meeting platform is also equipped with Closed Captioning capabilities in various languages, which agency staff can assist you with setting up ahead of meetings.

Requests for interpreters for the hearing impaired, for other accommodations for persons with disabilities, or for additional interpreter services should be made to info@opdc.state.or.us. Please make requests as far in advance as possible, and at least 48 hours in advance of the meeting, to allow us to best meet your needs.

Listed times are an estimate, and the Chair may take agenda items out of order and/or adjust times for agenda items as needed.



Date: May 28, 2026

To: Susan Mandiberg, Chair – Governance, Policy, & Standards
OPDC Commissioner Kay
OPDC Commissioner Knab
OPDC Commissioner Olson

Cc: Kenneth Sanchagrin, Executive Director

From: Dacia Smith, Rules Coordinator
Jennifer Bell, Operations and Policy Analyst

Re: OPDC Rulemaking Process

Nature of Presentation: Briefing

Background:

The rulemaking process at OPDC is done in consultation with Agency’s Executive team and the Commission. All rulemaking requires that the Commission’s majority vote to: adopt proposed rules to open rulemaking and adopt final rules to enact permanent rulemaking.

There are three levels of rules, and each has varying degrees of Commission and partner engagement. These levels allow for discussions to occur between the Agency’s Executive Team and the Commission to allow for flexible and fluid processes. Regardless of initial level, all proposed rules will be presented to the Commission and subject to RAC feedback and public comment.

- The first are restatements of statute and have specific requirements that allow little to no modifications or changes.
- The second will have increased Commission engagement. This is to provide the agency with key points that Commissioners may wish the agency consider when developing a rule.
- The third will have robust Commission and partner engagement. The agency will connect with the Commission and partners for thoughtful discussions to develop a shared understanding. The level of engagement for each rule will be developed in cooperation with the Executive Team and the Commission.

The agency’s first three proposed rules are required restatements of statute within the Administrative Procedures Act (ORS 183).

- The Uniform and Model Rules of Procedure are required for all other rules and outlines the process the agency must follow for rulemaking.
- The Notice of Proposed Rulemaking and Adoption of Temporary Rules are required and provide the public with details of agency rulemaking communications. It is best practice for the agency to complete permanent rulemaking; however, in the unlikely event of a pandemic or shutdown, the agency must have the ability to implement temporary rules.
- The Delegation of Authority is required to allow the Director to designate staff to coordinate rulemaking activities and file the Commission's adopted rules with the Secretary of State (SOS). This rule does not override statute which requires that the Commission adopt all rules by majority vote (ORS 151).

If agreeable to this committee, the agency intends to give this presentation and packet to the Commission in June. At that meeting, the agency will propose that the Commission vote to open rulemaking on these three draft proposed rules. If all proposed draft rules proceed forward, the agency will file rulemaking paperwork with SOS, hold a rules advisory committee (RAC) meeting on June 16, and a public hearing in July before reporting back the results to the Commission. Then, in September the Commission would vote to adopt the permanent rules.

The agency will provide working drafts of the next three proposed rules within the next few months.

Fiscal Impact:

None.

Recommendations:

The agency recommends that the Committee:

- 1) Refer the May 28 OPDC Rulemaking presentation and first three draft proposed rules to the June 11 Commission meeting and
- 2) Invite the rulemaking team to the June 25 meeting to discuss proposed drafts of the next three rules – Agency Overview, Acronyms, and Definitions.

Proposed Motion:

None.

Oregon Public Defense Commission

Chapter 404
Division 001
Procedural Rules

404-001-0000
Uniform and Model Rules of Procedure

Pursuant to the provisions of ORS 183.341, the Oregon Public Defense Commission adopts the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act, dated 2024, as the rules of procedure for administrative rulemaking and other administrative law functions of the Agency.

[ED. NOTE: The full text of the Attorney General's Uniform and Model Rules of Procedure is available from the office of the Attorney General or the Agency.]

Statutory/Other Authority: ORS 151.216 & 183.341
Statutes/Other Implemented: ORS 151.216, 183.341 & 183.390
History:

404-001-0000 Uniform and Model Rules of Procedure
Proposed Effective Date: October 1, 2026

Oregon Public Defense Commission

Chapter 404
Division 001
Procedural Rules

404-001-0100

Notice of Proposed Rulemaking and Adoption of Temporary Rules

(1) Prior to adoption, amendment, or repeal of any rule, the Oregon Public Defense Commission shall give notice of the intended action:

(a) To certain legislators specified in ORS 183.355(15) at least 49 days before the effective date of the rule;

(b) To persons or organizations on the agency's interested parties mailing list described in section (2) of this rule at least 28 days prior to the effective date of the intended action;

(c) To the Associated Press and the Capital Press Room at least 28 days before the effective date of the rule; and

(d) In the Secretary of State's Bulletin, referred to in ORS 183.360, at least 21 days prior to the intended action.

(2) Pursuant to ORS 183.335(8) the agency shall maintain an interested parties list for the OAR chapter for which it has administrative responsibility. A person, group, or entity that desires to be placed on such a list to receive notices regarding proposed permanent adoption, amendment, or repeal of a rule must make such a request in writing either on the agency's website or to the agency's rules coordinator. The request must include either a mailing address or an electronic mail address to which notices may be sent.

(3) Notices under this rule may be sent by use of postal mail or electronic mail (email). The agency recognizes state shuttle as mail and may use this method to notify other state agencies.

(a) An email notification under section (1) of this rule may consist of the following:

404-001-0100 Notice of Proposed Rulemaking and Adoption of Temporary Rules

Proposed Effective Date: October 1, 2026

(A) An email that attaches the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(B) An email that includes a link within the body of the email, allowing direct access online to the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(C) An email with specific instructions within the body of the email, usually including an electronic Universal Resource Locator (URL) address, to find the Notice of Proposed Rulemaking or Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact.

(b) The agency shall honor all written requests that notification be sent by postal mail instead of electronically if a mailing address is provided.

(4) If the agency adopts or suspends a temporary rule, the agency shall give notice of the intended action:

(a) To certain legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule;

(b) To persons or organizations on the agency's interested parties mailing list described in section (2) of this rule at least 28 days prior to the effective date of the intended action;

(c) To the Associated Press and the Capital Press Room at least 28 days before the effective date of the rule; and

(d) In the Secretary of State's Bulletin, referred to in ORS 183.360, at least 21 days prior to the intended action.

(5) In lieu of providing a copy of the rule as proposed with the notice of intended action or notice concerning the adoption of a temporary rule, the agency may state how and where a copy may be obtained on paper, by electronic mail, or from a specified website.

(6) The Oregon Public Defense Commission may update the mailing list described in section (2) of this rule annually by requesting persons to confirm that they wish to remain on the mailing list.

404-001-0100 Notice of Proposed Rulemaking and Adoption of Temporary Rules

Proposed Effective Date: October 1, 2026

If a person does not respond to a request for confirmation within 28 days of the date the agency sends the request, the agency will remove the person from the mailing list. Any person removed from the mailing list will be immediately returned to the mailing list if the agency receives such a request in writing.

Statutory/Other Authority: ORS 183.341 & 151.216

Statutes/Other Implemented: ORS 183.341

History:

DRAFT

404-001-0100 Notice of Proposed Rulemaking and Adoption of Temporary Rules

Proposed Effective Date: October 1, 2026

Oregon Public Defense Commission

Chapter 404

Division 001

Procedural Rules

404-001-0200

Delegation of Rulemaking Authority

Any member or employee of the Commission who is identified on a completed Delegation of Authority form signed by the Executive Director, the Deputy Director, or Chair of the Commission and filed with the Secretary of State, Administrative Rules Unit, is vested with the authority to adopt, amend, repeal, or suspend administrative rules as provided on that form until such delegation is revoked by the Executive Director, the Deputy Director or Chair of the Commission, or the person leaves employment with the Commission.

Statutory/Other Authority: ORS 151.216

Statutes/Other Implemented: ORS 183.325, ORS 151.216

History:

404-001-0200 Delegation of Rulemaking Authority
Proposed Effective Date: October 1, 2026

Boards and Commissions Best Practices Measure

1. What's this about?

Department of Administrative Services (DAS) and the Legislative Fiscal Office (LFO) were given a joint budget note for 2005-07 asking them to develop best management practices performance measures to be applied to governance boards and commissions. A recommendation was submitted to and approved by JLAC in July, 2006. In 2007-09 the Legislature added it to all governing Boards and Commissions.

2. What's the measure?

The approved measure is "percent of total best practices met by the board." The measure is calculated as the percent of "yes" responses provided in a self-assessment of best practices. The Self-assessment Guidance that lists 15 best practices is provided in the recommendation. Applicable boards/commissions will need to conduct annual self-evaluations to gather information to report on the measure.

3. Who is impacted?

The requirement is being applied to boards and commissions that meet the following criteria:

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

These criteria focus on governing boards/commissions. A complete list of applicable boards/commissions is provided in the recommendation.

4. How often do we report on this measure?

Yearly

Standard Measure – Percent of best practices met by the Board and/or Commission

Self-Assessment/Best Practices Criteria

1. Executive Director's performance expectations are current.
2. Executive Director receives annual performance feedback.
3. The agency's mission and high-level goals are current and applicable.
4. The board reviews the *Annual Performance Progress Report*.
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 (likely occurs every other year).
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

Totals

Percentage of Total

****For Subcommittee Discussion Reference**



Date: September 17, 2025

To: Jennifer Nash, Chair of OPDC
OPDC Commissioners

Cc: Kenneth Sanchagrin, Executive Director

From: Susan Mandiberg, Vice Chair of OPDC

Re: Key Performance Measures (KPM) Best Practices Survey

Nature of Presentation: Briefing

Introduction:

The KPM Survey is part of the budget process. OPDC is required to submit a report on our progress in meeting performance measures to the Department of Administrative Services (DAS) and the Legislative Fiscal Office (LFO); this must be done by October 1 of each year. ORS 291.110(1)(g).

The Commission Best Practices Evaluation is one of 5 KPMs. In 2024, normally, this is completed by commissioners. In 2024 the Commission had been in existence for a little over six months, so for full input we circulated the survey both to commissioners and to fourteen staff members who had worked closely with the Commission.¹ This year, as is more typical, we circulated the survey only to the ten active commissioners; 8 responded.

The survey asks commissioners to respond to fifteen statements about Commission performance. The statements (*i.e.*, the performance measures) are mandated, but the way responses are measured is not. Our survey asked respondents to rate performance on a scale (strongly agree – agree – no opinion – disagree – strongly disagree). Respondents also had the opportunity to give textual responses, which are not forwarded to DAS or LFO. All responses are anonymous, and it is not possible to correlate the scale responses with the textual responses.

OPDC staff generated a report that shows the number of people responding at each scale level, the percentage of respondents who give each scale response, and the

¹ The results of the 2024 survey, including a Governance Subcommittee report, were on the agenda of the September 18, 2024 Commission meeting and are available on the OPDC website.

written comments. The Report is attached below.

The Governance Subcommittee discussed the 2025 responses at the Subcommittee's Sept. 4 meeting. We did not take any official actions. This Memo summarizes observations the Subcommittee discussed with regards to the survey responses.

I. Commission Evaluation of the Executive Director's (ED's) Performance

Statement 1: The Executive Director's Performance Expectations are Current.

Statement 2: The Executive Director Receives Annual Performance Feedback.

Scale responses to these statements ran the whole gamut from "strongly agree" to "strongly disagree." The lack of consensus may have resulted from the current ED having been in office only briefly when the survey went out. There was, however, consensus in the textual responses, which accurately observe that the Commission has neither articulated performance measures nor given an annual performance feedback based on those measures.

The reasons the Commission did not articulate performance measures for the ED in 2024 include the fact that almost all commissioners were new and were still learning about how OPDC operates. In addition, the Commission's attention was focused on the pressing issue of addressing the crisis of unrepresented persons. Finally, the other consuming issue – the novel task of transitioning to the Executive Branch of government – was not easily subject to traditional performance standard evaluation.

Now that OPDC's role in the Executive Branch is clearer, it is important for the Commission to articulate both performance standards for the ED and a method of providing annual performance feedback. The Governance Subcommittee is studying both issues and will be presenting suggestions to the Commission at a later meeting.

II. The Agency's Mission

Statement 3: The agency's mission and high-level goals are current and applicable.

Most respondents agreed or strongly agreed with this statement. However, the textual responses reflect commissioners' frustration at not being able to achieve what commissioners consider to be the agency's mission and goals.

III. Commission Oversight

The survey contained seven statements regarding the Commission's oversight duties.

The Commission...

Statement 4: ...reviews the Annual Performance Progress Report.

Statement 5: ... is appropriately involved in review of agency's key communications.

Statement 6: ...is appropriately involved in policy-making activities.

Statement 8: ...reviews all proposed budgets (likely occurs every other year).

Statement 9: ... periodically reviews key financial information and audit findings.

Statement 10: ...is appropriately accounting for resources.

Statement 13: ...coordinates with others where responsibilities and interests overlap.

The scale responses to all statements except Statements 6 and 13 were either strongly agree, agree, or no opinion. Some of the textual comments to these statements, however, reflect commissioners' frustration with both the amount of work volunteer commissioners are expected to undertake and with the inability to carry out the programs and policies the Commission has adopted.

Statement 6 drew one "strongly disagree" response. It is possible that this response was made by the commissioner who commented that "agency employees have not always taken guidance from the commissioners." This comment may suggest an element that could be added to the list of ED performance expectations, as the Commission has no direct management over OPDC staff.

Statement 13 drew one "disagree" response. The textual comments all, once again, reflect commissioners' frustration; for example, "We try. Coordination is a 2-way street, sadly."

IV. Other Commission Duties

Statement 12: Commission members act in accordance with their roles as public representatives.

Statement 14: Commission members identify and attend appropriate training sessions.

Statement 15: The Commission reviews its management practices to ensure best practices are utilized.

There were no disagree or strongly disagree responses to any of these statements, and only one substantive textual comment. One person had "no idea" what it means to act in accordance with public representative roles. This comment suggests that training as to the expected role of a public representative might be useful.

V. Agency Accounting Practices

Statement 11: The agency adheres to accounting rules and other relevant financial controls.

Scale responses range from strongly agree to no opinion. The one substantive comment, that the LFO may "not be pleased with our budgeting," may reflect a misunderstanding of the nature of the LFO's concerns. In any case, OPDC has an active audit committee, one member of which is a commissioner who is also on the Governance Subcommittee. Both the Subcommittee and the Commission receive regular audit reports, and the Commission receives budgeting reports at Commission meetings.

VI. Policy Option Packages (POPs)

Statement 7: The agency's policy option packages are aligned with their missions and goals.

Most scale responses were in the "strongly agree/agree" range; two had no opinion. One textual comment, however, suggests that the Commission should pay closer attention to the political context in which our POPs are drafted and the strategies associated with that context.