

**Members:**

Susan Mandiberg, Chair  
Robert Harris  
Philippe Knab  
Paul Lipscomb

**Interim Executive Director:**

Ken Sanchagrin

## Oregon Public Defense Commission Governance Subcommittee Meeting

*Meeting will occur virtually  
Wednesday, October 8, 2025  
3:30pm to 5:00pm 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.*

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# AGENDA

Approx. Time	Item	Lead(s)
3:30-3:35	Welcome and Call to Order	
3:35-4:15	<b>Discussion:</b> <a href="#">Updates to the Commission Bylaws</a>	Chair Mandiberg
4:15-4:45	<b>Discussion:</b> Commission Member Handbook	Chair Mandiberg
4:45-5:00	<b>Discussion:</b> <a href="#">Executive Director Performance Review Process</a>	Chair Mandiberg
5:00	<b>**Adjourn**</b>	

*\*To join the Zoom meeting, click this link: <https://zoom.us/j/97688016780>. 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](mailto: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:** October 2, 2025

**To:** OPDC Governance Subcommittee

**Cc:** Kenneth Sanchagrin, Interim Executive Director

**From:** Susan Mandiberg, Governance Subcommittee Chair

**Re:** Amendments to Bylaws—Explanation of Proposed Amendments

Please review my suggested amendments to the existing bylaws made available in two separate documents: (1) amendments with track changes, and (2) clean copy of bylaws incorporating my suggested amendments.

I had some general goals in mind when suggesting amendments:

1. Cut down verbiage; make the bylaws more succinct. (We could probably do more along these lines.)

One way to do this is to refer to the relevant statute(s) rather than repeating or paraphrasing statutory content, and so also ensures accuracy. Referring to the statute also allows us not to have to amend bylaws when the statute is amended.

2. Improve clarity by
  - a. ensuring consistency in terminology, use of capitals, and so forth;
  - b. expanding the “definitions” section to address the confusion caused by the Legislature using “OPDC” to refer to both the volunteer commission and the agency;
  - c. making a distinction between an “action item” that requires a quorum and recommendations to the Commission from sub-committees and workgroups;
  - d. including more section or subsection headings and dividing material into sub-paragraphs (this also allows a reader easily to compare and contrast bylaws on similar issues).

I’m sure I have not thought of or caught every problem. Please add your own suggestions and critiques to what I have presented here. My proposals are meant just to be a basis for discussion and further work.

Following are explanations of specific amendment suggestions shown in the accompanying documents.

<b>Art I § 1</b>	Updating the information.
<b>Art I § 3</b>	The 2025 legislature specifically removed the language saying we were NOT subject to the Governor, so I think it is prudent to clarify that we now <i>are</i> subject to the Governor’s administrative authority. I’ve used the language in the legislation.
<b>Art I § 4(a)</b>	<p>§ 4(1)(b)(A) of the 2025 legislation amended ORS 151.206 to remove “national and regional best practices” from the sources we are to use for policies.</p> <p>Neither the statute nor the 2025 legislation says anything about Oregon statutes, but we clearly need to follow them, so I kept that.</p>
<b>Art I § 4(b)</b>	<p>I added the ED and the OPDC staff because everyone has the same goals.</p> <p>The deleted material summarizes what's in ORS 151.216 (see my general comment above).</p> <p>It might be prudent publish a list of commissioner responsibilities as a separate document.</p>
<b>Art I § 4(c)</b>	(No changes) Notwithstanding the current federal zeitgeist, Gov. Kotek’s 1/11/25 letter to state agency leaders included the expectation that each agency must have a Diversity, Equity, and Inclusion Plan (DEI Plan), updated every two years; it encourages agencies to “adopt the strategies, goals, and implementation processes from the statewide Diversity, Equity, and Inclusion Action Plan to fit their mission.”
<b>Art I § 4(d)</b>	I added the ED and the OPDC staff because everyone should follow this directive.
<b>Art. I § 5(a)-(e)</b>	<p>(a)-(c): see my general comments about confusion in using OPDC label.</p> <p>(c): eliminated “by the Commission” -- The 2025 legislation removes the ability to select an ED from the commission and gives the power to the Governor.</p> <p>(e): I think we need to define “action item” to distinguish it from, for example, a vote by a subcommittee or work session to make a</p>

	recommendation to the Commission. Please improve the definition I have here.
<b>Art I § 5(f)</b>	<p>The bylaws use the term “in writing” several times; given the various types of things that qualify as “writing” these days, I thought it prudent to be specific</p> <p>It seems prudent to exclude audio messages, which are not as easy to replicate or make available for a public records request.</p> <p>As many commissioners have found it difficult to communicate only through the OPDC-provided tablet, and as emailing to our OPDC addresses is not possible on personal devices, it seems counterproductive to require “written” communications to go through the OPDC addresses (and none of us has an OPDC phone number to receive texts).</p> <p>If we don't require emails to be to our OPDC addresses, it would be prudent to give commissioners written guidance on how to preserve emails and texts in the event of public records requests.</p>
<b>Art II §3</b>	<p>There is no reason to repeat what is in the statute.</p> <p>It is especially important to remove the language about the commission appointing a new member if the Governor fails to act, as we no longer have that power if we ever did.</p>
<b>Art II §4</b>	<p>It is more efficient just to refer to the relevant statutes; this also means that, unless the statute numbering is changed, we will not have to amend the bylaws if or when* the statute content changes.</p> <p>*Without further amendment: until January, 2026, members serve at the Governor's pleasure. Starting 1/1/26 the Governor can remove only for inefficiency, neglect of duty, or malfeasance in office.</p>
<b>Art II §7(a)</b>	The amendments here reflect the language in ORS 151.213(4).
<b>Art II §§8 &amp; 9</b>	These are sections where I divided content into sub-paragraphs; see above.
<b>Art II § 9</b>	For clarity, I've re-organized the material into “following” vs “not following” public meeting laws. This involved moving around some existing material but not otherwise changing it.

<b>Art II §9(a)</b>	New. Given issues that have arisen and the lack of familiarity with public meeting laws, I think it's prudent to include this. Including this makes former § 9(a) redundant, so I removed it.
<b>Art II §9(b)(ii)</b>	<p>The existing language set out a procedure that was too clunky (and so often wasn't followed) and did not achieve the goals of (i) ensuring that the ED was aware of and could coordinate/monitor communications between staff and commissioners on substantive issues to avoid confusion, errors, and so forth; (ii) to protect staff from being harassed by commissioners or from accusations that they had acted improperly in communicating with commissioners.</p> <p>The suggested language will allow these goals to be furthered but will also allow the ED to come up with a process that will work internally and allow for changes when these become necessary.</p>
<b>Art. III § 1(a)(i)</b>	<p>The deleted material summarizes what's in ORS 151.216. As noted above, referring to the statute is preferable.</p> <p>I suggest that the Chair or Executive Director should make sure that each commissioner has a copy of the current statutes and regulations governing the commission, as not all commissioners have easy access to these materials.</p>
<b>Art. III § 1(a)(ii)</b>	This is the language in the amended statute (we are no longer an "independent" agency).
<b>Art. III § 1(a)(vi)</b>	<p>I suggest adding this because § 3 of the 2025 legislation amends ORS 151.216 to say that the Governor shall appoint an ED after consultation with the commission.</p> <p>The amended provision also says: "consultation with the commission' must include, but is not limited to, consulting with the chairperson of the commission prior to the recruitment of a new executive director, allowing the chairperson or another commission member designated by the chairperson to participate in the interview process, and allowing commission members to review and provide comment on the top three candidates prior to the final appointment."</p> <p>The amended provision does not limit these interactions to voting members of the commission.</p>

	There is nothing in the statutes that says the commissioners shall undertake these duties, but I think our bylaws should reflect that we get to do that (and should).
<b>Art. III § 1(b)(ii)</b>	<p>This is the language in the amended statute.</p> <p>We no longer submit the budget directly to the legislative assembly, as we are no longer an independent agency. (In fact, in 2024-25 we gave in to the Governor’s pressure to submit to her even when we were “independent”).</p>
<b>Art. III § 1(b)(iii)</b>	<p>The Governor’s “Agency Expectations” memo says that commissions should review the ED performance every two years, but it does not give a month or a starting year.</p> <p>DAS, however, has published a schedule that it wants followed for bi-annual director 360 performance reviews. The schedule has OPDC down as completing our 360 ED performance review in June, 2026 and in June for every even-numbered year thereafter.</p>
<b>Art. III § 1(d)</b>	Existing material rearranged and divided into sub-paragraphs for clarity.
<b>Art. III § 2(e)</b>	I suggest moving the audit report responsibility here. The Commission has authority over the ED, but not over staff, including the internal auditor, so it has to work through the ED.
<b>Art. III § 3</b>	The suggested amendments aim to remove possible misunderstanding that the Commission has any direct authority over OPDC staff. The relationship between the commissioners and the staff has been confusing, leading some stakeholders to ask the Commission to deal with staff personnel problems, which it lacks the power to do directly. I think it is important to make this clearer in the bylaws.
<b>Art. IV § 2</b>	I think it’s a good idea to list concisely—and ahead of details—the types of OPDC meetings so that folks don’t have to page through the rest of the document to determine what types of meetings are possible.

	<p>It would also lend clarity to define each type of meeting here, so I've taken a first step at doing that. I've also amended sections below to accommodate this change.</p> <p>Note that the existing bylaws do not mention work sessions. As we need them and are having them regularly now, they need to be authorized in the bylaws.</p>
<b>Art. IV</b> §3, 4(a), and 4(d)(ii)	This was in the old bylaws – I just changed location.
<b>Art. IV</b> § 4(d)(iii) & (iv)	<p>While it is necessary to have a quorum to <i>vote</i> on an action item, it makes little sense to require a quorum to <i>discuss</i> a matter that is likely to become an action item or that was noticed as an action item before it was clear that there would be no quorum at the meeting. (We've been discussing possible action items at work sessions without a quorum.)</p> <p>In fact, I believe that for efficiency's sake our actual practice has been to discuss (but not vote on) items that are likely to be action items even when a quorum has not been present. There are good reasons for this:</p> <ul style="list-style-type: none"> <li>• Allowing a discussion avoids delaying action for only one regular meeting (as opposed to waiting for a meeting to discuss and then another meeting to vote if the discussion requires changes too complex to deal with immediately).</li> <li>• The inability even to discuss possible action items without a quorum can significantly slow the accomplishment of Commission business.</li> <li>• In addition, as we now have work meetings to discuss possible action items, it makes little sense to prohibit a discussion at a regular meeting.</li> </ul> <p>So, I suggest that our discussion at the Governance Subcommittee meeting might include:</p> <ul style="list-style-type: none"> <li>• Is there any reason <u>not</u> to delete the language I've deleted?</li> <li>• Should we add something to commissioner duties saying commissioners are expected to read the transcripts or watch the videos of meetings they cannot attend? This would make it more likely that absent commissioners would be up to speed when there is a quorum for the action item.</li> </ul>



<b>Art. IV</b> § 4(d)(vii)	I think it's prudent to empower the Commission to allow the public to engage in discussions. We did this at the in-person meeting in Medford, and it was very useful.  The rest of this (in green) was just reorganized.
<b>Art. IV</b> § 4(d)(viii)	This language captures the practice we have been following.
<b>Art. IV</b> §5(a)	Cleaner language; avoids the word "special," which has no defined meaning here.
<b>Art. IV</b> §5(b)	QUERY: Do we need to set some specified time frame for scheduling and posting an informational meeting.
<b>Art. IV</b> §5(e) & (f)	Changed to put in proper outline format.
<b>Art. IV</b> §6	The existing bylaws make no mention of work sessions. So, this entire section is new. The text reflects my first shot. Please improve it!
<b>Art. IV</b> §6(a)	QUERY: Do we need to allow presentations by non-staff? If so, should we say that in so many words?
<b>Art. IV</b> §6(b)	The language reflects our current practice.
<b>Art. IV</b> §7(a)	There is nothing about a 24-hour notice, and I think the suggested language is more encompassing.
<b>Art. IV</b> § 7(c)(1)	Seems prudent to include the Vice-chair, and it's what would probably happen anyway.
<b>Art. IV</b> §1(b)	QUERY: Do we want to keep the requirement for 3 voting members? It is difficult to meet this requirement. What purpose does it serve?
<b>Art. V</b> § 5(1)(e)(v)b	Subcommittees cannot consider an "action item" as defined by the suggested amendment to definitions. Neither a quorum of the Commission nor a quorum of a subcommittee should be required to vote on recommending something to the Commission. Requiring a quorum would often mean a delay of business, and what benefit would such a requirement provide?



**Date:** October 3, 2025

**To:** OPDC Governance Subcommittee

**Cc:** Kenneth Sanchagrin, Interim Executive Director

**From:** Susan Mandiberg, Governance Subcommittee Chair

**Re:** Bylaws Consideration: Voting Members with Actual Conflicts of Interest

The issue presented here is not reflected in the draft amended bylaws circulated earlier. I thought it would be useful to explain the issue in writing so that committee members could think about it ahead of time as opposed to first hearing about it orally at the meeting.

Issue: Should a Voting Member with an actual conflict of interest be able to (or be required to) abstain from voting on the issue from which the conflict arises?

Outline of current policies relevant to the issue

- A quorum of the Commission (a majority of Voting Members) must be *present* to decide an action item.<sup>1</sup>
  - Note that “quorum” does not mean a majority of Voting Members who are *able to vote*. A Voting Member with an actual conflict of interest<sup>2</sup> is still “present” and so helps constitute a quorum.
- It has been our practice to adopt an action item if a majority of the Voting Members present vote to adopt it.<sup>3</sup>

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<sup>1</sup> Art. IV §(d)(iii).

<sup>2</sup> Art. II § 8(b)(i) defines an actual 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.”

<sup>3</sup> Surprisingly, the current bylaws do not say a majority is required. See Art. IV §(d)(x). (Sub-section c needs to be revised, but we cannot do this until the current issue is resolved.)

- When an action item is on the agenda and there is a quorum, Voting Members who are present *must* vote yea or nay – they are not allowed to abstain.<sup>4</sup>
- The requirement to vote includes a Voting Member who has an actual conflict of interest: that member can vote if “the Member’s vote is necessary to meet the minimum number of votes required to take official action.”<sup>5</sup>

### Discussion points

- An alternative to requiring a conflicted Voting Member to vote would be to allow that Voting Member to abstain after announcing the reason for the conflict.
- Our bylaws can allow a quorum to exist if enough Voting Members are present, whether they are required to vote or are allowed to abstain.
  - We don’t use Robert’s Rules of Order. But using it as a reference point, abstentions do not affect the quorum “where either a majority vote or a two-thirds vote is required “since what is required is either a majority or two thirds of the votes cast.” But if the vote required is a majority or 2/3 of the “members present” or of the entire membership, an abstention is like a “no” (but it isn’t a “vote”).
- The current provision requiring the conflicted Member to vote helps if only an even number of present Voting Members, presenting the possibility of a tie vote. A tie vote would require the action item to be tabled and re-raised at the next meeting.
- Of course, a tie vote would occur also if the conflicted Member was allowed to abstain.
- So, the issue is how we feel about the trade off in the tie-vote situation:
  - Requiring the conflicted member to vote allows us to move forward on the action item, but is the vote tainted by the conflict (even if the conflict is announced)?
  - Allowing the conflicted member to abstain means tabling the action item but allows a conflict-free resolution at a later meeting.

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<sup>4</sup> Art. IV(d)(x)b. However, members “explain on the record their reasons for a yea or nay vote or for asserting a conflict of interest.”

<sup>5</sup> Id.

- If we decide to recommend abstention, as opposed to the current approach, a number of bylaw sections and sub-sections will need to be amended. I will have a list of those at the meeting.

## BYLAWS

### Article ~~I~~<sup>1</sup>

#### 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 and by 2025 Oregon Laws Ch. 569 (H.B. 2614).
- ~~2.3.~~ Governance.** The OPDC is governed by a 13-member Commission, which includes nine voting members and four non-voting members. The OPDC is housed in the executive branch of government and is subject to the administrative authority and supervision of the Governor.
- ~~3.4.~~ 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 requirements of the Oregon and Constitution, the United States Constitution, Oregon and national standards of justice, and Oregon statutes.
  - (b) To achieve this mission, Commission Members, the Executive Director, and staff 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.
  - (c) 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.
  - (d) To further achieve ~~this OPDC’s mission~~ the Commission Members, 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.
- ~~4.5.~~ Basic Definitions.** The following definitions govern usage in these Bylaws:
  - (a) “Commission” means voting and non-voting Commission Members ~~Commission Members~~ acting in their oversight capacity.
  - (b) “Staff” and OPDC 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.

(e) “Action item” means an item on the agenda regarding whether the Commission should formally undertake a course of conduct or adopt a policy.

~~(d)~~(f) “In writing” includes letters, memoranda, emails, and text messages but does not include audio messages.

## Article ~~II~~2

### COMMISSION MEMBERSHIP

1. **Membership Authority.** 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 every two years, a Chair and Vice Chair of the Commission, with such functions as the Commission may determine. A member is eligible for reelection as chairperson or vice chairperson.

- (b) The Chair is the public liaison of the ~~Commission-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~~ Commission 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) ~~Ethics. Commission Members~~ Cosmissionerw shall comply with the government ethics provisions of ORS Chapter 244.

### (b) Actual conflicts.

- (i) 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.
- (ii) 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.
- ~~(iii)~~ (iii) 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) Potential conflicts.

- (i) 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.
- (ii) 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.
- ~~(iii)~~ (iii) The Member may vote on the issue from which the potential conflict arises.

## 9. **~~Communications Not Subject to~~ Public Meeting Laws.**

- (a) Applicability of Public Meeting Laws. Except as noted below, Commission Members' oral and written communications will follow the requirements and guidelines in ORS Chapter 192 and Oregon Administrative Rules Chapter 199 Division 50.

- ~~(i) 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~~Commission Members ~~Members~~ may communicate orally or in writing with OPDC staff on non-substantive issues, such as scheduling and IT support.

(+)(ii) Commission Members' oral and written communications with OPDC staff members regarding agency oversight or other substantive commission business shall adhere to the guidelines and procedures set out in writing by the Executive Director.

(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.~~

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(iii) Individual Commission Members~~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 ~~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~~Commission Members ~~Members~~, officers, employees, and agents shall be indemnified in the manner provided by ORS 30.285.

Article ~~III~~3

ROLES AND RESPONSIBILITIES GENERALLY

- 1. ~~Commission~~Commission Members ~~Members~~. Commission~~Commission Members~~ ~~Members~~ are responsible for governing and providing oversight to the OPDC, pursuant to the requirement of ORS 151.213 and 151.216.
- (a) ~~Commission~~s ~~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 agency request 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.
  - (vi) Consult with the Governor regarding appointment of an Executive Director as set out in ORS 151.213(9).
- (b) Voting ~~Commission~~Commission Members~~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 agency request budget of the Commission before submission to the Oregon Department of Administrative Services, Legislative Assembly;
  - (iii) Set biennial performance expectations for the Executive Director and require a performance review at least every two years in ~~September-June~~ in the ~~odd-even~~ numbered years beginning in 2026 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~~Commission Members~~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) Advocacy and Press Relations
- (i) An individual Commission Member may not act as spokesperson for the Commission unless authorized to do so in writing by the Chair.

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

~~(+)(iii)~~ Individual ~~Commission~~Commission Members ~~Members~~ may, in their personal capacities, communicate with the press, members of the public, or both; when doing so ~~Members~~Commission 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~~Commission Members ~~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 .

~~(+)(c)~~ The Executive Director shall ensure that OPDC auditors present an internal audit report to the Commission at least yearly.

## 3. OPDC Staff.

~~(a)~~ OPDC staff is responsible for agency administration and operations as set out in ORS 151.216, ~~and it performs its actions through the authority of its Executive Director, as defined by ORS 151.219.~~

~~(+)(b)~~ The Commission has no direct responsibility for OPDC staff, which 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 IV4

## MEETINGS

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

**2. Types of Meetings.** The Chair of the Commission, in consultation with the Executive Director and in accordance with these bylaws, may schedule the following types of meetings and may authorize the chairs of subcommittees to schedule subcommittee meetings.

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(a) Regular meetings: regularly scheduled meetings that may involve public comment, presentations, discussion, and action items.

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(b) Work sessions: intermittently scheduled meetings that focus on discussion and presentations, and do not include action items or public comment.

(c) Informational meetings: intermittently scheduled meetings held to gather information relevant to the Commission's mission.

(d) Emergency meetings: scheduled on short notice and may involve public comment, presentations, discussion, and action items.

(e) Executive sessions: meetings that are held pursuant to ORS 192.660.

**3. Public Meeting Laws.** All meetings shall comply with public meeting laws pursuant to ORS Chapter 192.

#### **4.4 Regular Meetings.**

(a) Schedule and Notice. At the first meeting of each calendar year, Commission Members shall meet according to a regular schedule, establish a schedule of regular meetings. The schedule may be ed 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~~ Commission Members ~~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~~Commission Members ~~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)~~ (ii) The Chair, or the Vice-chair in the Chair's absence, shall lead and manage the meeting.
- ~~(iii)~~ (iii) 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 item designated on the agenda as an action item ~~and to deliberate on or discuss items that are likely to come before the Commission as an action item.~~
- ~~(iv)~~ (iv) A quorum is not required to receive testimony and similar input from staff or stakeholders, ~~and to ask questions of the person presenting, or to discuss items on the meeting agenda.~~
- ~~(v)~~ (v) Virtual meetings: cameras and identification. To ensure accurate assessment of a quorum during virtual meetings, ~~Commission~~Commission Members ~~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.
- (vi) 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.
- ~~(vii)~~ (vii) Deliberation of issues will be conducted only by ~~Commission~~Commission Members ~~Members~~, but the Commission may authorize OPDC staff or members of the public to provide information and to engage in discussion on any topic.
- ~~(viii)~~ (viii) 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

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authorized. Rules and guidelines for public comment shall be posted on the OPDC website and on the published meeting agenda. The Chair of the Commission, or the Vice-chair in the Chair's absence, may modify posted time limits to accommodate time constraints or other considerations. ~~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)(ix) 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)(x) Voting.

- a. ~~Commission~~Commission Members ~~Members~~ must be present to vote.
- b. ~~Commission~~Commission Members ~~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)(xi) 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)(xii) 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.

## **5. Informational Meetings.**

- ~~(e)~~(a) Authority. The Chair of the Commission may ~~from time to time schedule 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.
- ~~(d)~~(b) Schedule and Notice. Notice of informational meetings shall be given to Members and posted on the OPDC website as early as practicable.
- ~~(e)~~(c) Agendas. Agendas shall be prepared ~~in accordance with sec. (42)(b)~~ except that the agenda may not contain any action items.
- ~~(f)~~(d) Materials. Materials shall be provided to members and posted on the OPDC website in accordance with section ~~(42)(c)~~.
- ~~(g)~~ Conduct of Informational Meetings. Informational Meetings shall be conducted in accordance with sec. ~~(42)(d) except that with the following exceptions:~~
- ~~(h)~~(e) Action items ~~Commission~~ Commission Members ~~Members~~ may not make motions calling for votes and may not vote on action items during an Informational Meeting.
- ~~(i)~~(f) Public input

(i) ~~OPublic 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) ~~WPublic 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.

## **6. Work Sessions.**

(a) ~~Authority. The Chair of the Commission may from time to time schedule work sessions to allow Commission Members for discussions of commission business or for presentations that cannot be accommodated during regular meetings. Work sessions do not include public comment or action items.~~

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(b) ~~Schedule, Notice, and Materials.~~ **ADD**

(a) ~~Agendas. Agendas shall be prepared in accordance with sec. 4(b).~~

(b) ~~Materials. Materials shall be provided to members and posted on the OPDC website in accordance with section (2)(c).~~

(c) ~~Conduct of Work Sessions.~~

a. ~~A quorum is not required to conduct a work session.~~

b. ~~Work Sessions shall be conducted in accordance with sec. 4(d) except that Commission Members may not vote on action items. Commission Members may, by majority vote of voting members present, decide to refer matters to a regular meeting of the Commission.~~

## **2.7. Emergency Meetings.**

~~(a) Authority. 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.~~

~~(b)(a) An emergency is a situation in which adhering to the notice requirements for other types of meetings 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)~~ **(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.

(d)(c) Agendas.

(i) Emergency meeting agendas will be finalized by the Executive Director and the Chair of the Commission or the Vice-chair if the Chair is unavailable. 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~~ Commission Members ~~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.

(e)(d) Conduct of emergency meetings. Emergency meetings shall be conducted in accordance with sec. ~~4(2)~~(d), and the reason for the emergency shall be stated at the outset of the meeting.

(f)(c) 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 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.

3.8 **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 V~~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.

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- 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.~~

- ~~e.b.~~ 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.c.~~ 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.d.~~ 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 ~~VI~~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~~VII

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.

## BYLAWS

### Article I

#### 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 and by [2025 Oregon Laws Ch. 569 \(H.B. 2614\)](#).
3. **Governance.** The OPDC is governed by a 13-member Commission, which includes nine voting members and four non-voting members. The OPDC is housed in the executive branch of government and is subject to the administrative authority and supervision of the Governor.
4. **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 requirements of the Oregon and United States Constitutions and Oregon statutes.
  - (b) To achieve this mission, Commission Members, the Executive Director, and staff shall ensure furtherance of the goals articulated in ORS 151.216 by adopting policies, procedures, standards, and guidelines regarding those mandates.
  - (c) 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.
  - (d) To further achieve OPDC’s mission, Commission Members, Executive Director, and 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.
5. **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” and OPDC Staff mean OPDC employees other than the Executive Director.
  - (c) “Executive Director” means the person selected under ORS 151.213 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.

- (e) “Action item” means an item on the agenda regarding whether the Commission should formally undertake a course of conduct or adopt a policy.
- (f) “In writing” includes letters, memoranda, emails, and text messages but does not include audio messages.

## Article II

### COMMISSION MEMBERSHIP

1. **Authority.** 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.
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 every two years, a Chair and Vice Chair of the Commission, with such functions as the Commission may determine. A member is eligible for reelection as chairperson or vice chairperson.
  - (b) The Chair is the public liaison of the Commission. It shall be the responsibility of the Chair or other person as directed by the Chair to speak on behalf of the Commission 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) Ethics. Commissioner shall comply with the government ethics provisions of ORS Chapter 244.

(b) Actual conflicts.

(i) 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.

(ii) 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.

(iii) 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) Potential conflicts.

(i) 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.

(ii) 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.

(iii) The Member may vote on the issue from which the potential conflict arises.

## **9. Public Meeting Laws.**

(a) Applicability of Public Meeting Laws. Except as noted below, Commission Members' oral and written communications will follow the requirements and guidelines in ORS Chapter 192 and Oregon Administrative Rules Chapter 199 Division 50.

(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) Commission Members' oral and written communications with OPDC staff members regarding agency oversight or other substantive commission business shall adhere to the guidelines and procedures set out in writing by the Executive Director.

(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.

Article III

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) Commissions shall:

- (i) Review, and provide input prior to an approval vote, the policies, procedures, standards, and guidelines required by ORS 151.216.
- (ii) Review the agency request 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.
- (vi) Consult with the Governor regarding appointment of an Executive Director as set out in ORS 151.213(9).

(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 agency request budget of the Commission before submission to the Oregon Department of Administrative Services.
  - (iii) Set biennial performance expectations for the Executive Director and require a performance review at least every two years in June in the even numbered years beginning in 2026 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) Advocacy and Press Relations
- (i) An individual Commission Member may not act as spokesperson for the Commission unless authorized to do so in writing by the Chair.
  - (ii) Individual Commission Members, in their personal capacities, may advocate for or against legislation before the Legislative Assembly; when doing so Commission Members shall make it clear that they do not speak for the Commission.
  - (iii) Individual Commission Members may, in their personal capacities, communicate with the press, members of the public, or both; when doing so Commission Members shall make it clear that they do not speak for the Commission.

## **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 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 .
- (e) The Executive Director shall ensure that OPDC auditors present an internal audit report to the Commission at least yearly.

## **3. OPDC Staff.**



- (a) OPDC staff is responsible for agency administration and operations as set out in ORS 151.216.
- (b) The Commission has no direct responsibility for OPDC staff, which performs its actions through the authority of its Executive Director, as defined by ORS 151.219.

## Article IV

### MEETINGS

1. **Public Meeting Laws.** All meetings and executive sessions shall comply with public meeting laws pursuant to ORS Chapter 192.
2. **Types of Meetings.** The Chair of the Commission, in consultation with the Executive Director and in accordance with these bylaws, may schedule the following types of meetings and may authorize the chairs of subcommittees to schedule subcommittee meetings.
  - (a) Regular meetings: regularly scheduled meetings that may involve public comment, presentations, discussion, and action items.
  - (b) Work sessions: intermittently scheduled meetings that focus on discussion and presentations, and do not include action items or public comment.
  - (c) Informational meetings: intermittently scheduled meetings held to gather information relevant to the Commission's mission.
  - (d) Emergency meetings: scheduled on short notice and may involve public comment, presentations, discussion, and action items.
  - (e) Executive sessions: meetings that are held pursuant to ORS 192.660.
3. **Public Meeting Laws.** All meetings shall comply with public meeting laws pursuant to ORS Chapter 192.
4. **Regular Meetings.**
  - (a) Schedule and Notice. At the first meeting of each calendar year, Commission Members shall establish a schedule of regular meetings. The schedule may be 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) The Chair, or the Vice-chair in the Chair's absence, shall lead and manage the meeting.
- (iii) 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 item designated on the agenda as an action item.
- (iv) A quorum is not required to receive testimony and similar input from staff or stakeholders, to ask questions of the person presenting, or to discuss items on the meeting agenda.
- (v) 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.

- (vi) 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.
- (vii) 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 and to engage in discussion on any topic.
- (viii) Public comment may be allowed and shall be posted on the agenda when authorized. Rules and guidelines for public comment shall be posted on the OPDC website and on the published meeting agenda. The Chair of the Commission, or the Vice-chair in the Chair's absence, may modify posted time limits to accommodate time constraints or other considerations.
- (ix) 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.
- (x) 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.
- (xi) 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.

- (xii) 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.

**5. Informational Meetings.**

- (a) Authority. The Chair of the Commission may from time to time schedule meetings of the Commission to gather information relevant to its mission. These may include 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 sec. 4(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 4(c).

(e) Conduct of Informational Meetings. Informational Meetings shall be conducted in accordance with sec. 4(d) except that Commission Members may not make motions calling for votes and may not vote on action items during an Informational Meeting.

(f) Public input

(i) 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) 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.

## **6. Work Sessions.**

(a) Authority. The Chair of the Commission may from time to time schedule work sessions to allow Commission Members for discussions of commission business or for presentations that cannot be accommodated during regular meetings. Work sessions do not include public comment or action items.

(b) Schedule, Notice, and Materials.

(a) Agendas. Agendas shall be prepared in accordance with sec. 4(b).

(b) Materials. Materials shall be provided to members and posted on the OPDC website in accordance with section (2)(c).

(c) Conduct of Work Sessions.

a. A quorum is not required to conduct a work session.

b. Work Sessions shall be conducted in accordance with sec. 4(d) except that Commission Members may not vote on action items. Commission Members may, by majority vote of voting members present, decide to refer matters to a regular meeting of the Commission.

## **7. Emergency Meetings.**

(a) Authority. The Chair may call an emergency meeting in a situation in which adhering to notice requirements for other types of meetings 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 or the Vice-chair if the Chair is unavailable. 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. 4(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 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.
- 8. 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 V

### 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. 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.
- c. 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.
- d. 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 VI

### 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 VII

### 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.



**Date:** October 2, 2025

**To:** OPDC Governance Subcommittee

**Cc:** Kenneth Sanchagrin, Interim Executive Director

**From:** Susan Mandiberg, Governance Subcommittee Chair

**Re:** Considerations for Executive Director (ED) Performance Expectations & Evaluation

I suggest that we use at least the following considerations in discussing ED performance expectations and review.

1) Required ED Performance Review

- a) The Governor's "Agency Expectations" memo says that commissions should review the ED performance every two years.
- b) The Department of Administrative Services has published a schedule that it wants followed for bi-annual director 360 performance reviews. The schedule has OPDC down as completing our 360 ED performance review in June, 2026 and in June for every even-numbered year thereafter.
- c) The DAS document (attached) sets out a 5-point scale to use in the review; the questions that focus on the ED's performance are:
  - 1. This individual promotes a customer service centered organization.
  - 2. This individual collaboratively manages the resources they are entrusted with to achieve the best possible outcomes for Oregonians.
  - 3. This individual embraces and leads through change.
  - 4. This individual creates and fosters an environment where everyone has access and opportunity to thrive.
  - 5. This individual owns and takes responsibility for quality of outcomes for Oregonians.
  - 6. This individual aligns to the goals and direction of the Governor.

7. This individual operates with urgency, transparency, and accountability.
8. This individual is honest and transparent regardless of the situation.
9. This individual is consistent in communicating to their own agency what is happening at the enterprise level (executive branch).
10. This individual regularly shares what is happening within their agency.
11. This individual builds DEI organizational capacity.
12. This individual fosters and promotes an inclusive workplace environment.
13. What are some leadership strengths you've observed in this individual?
14. What are some leadership opportunities for growth in this individual?

d) The DAS document also sets out a process to be followed, a list of the types of individuals who must be asked to comment.

## 2) Additional Performance Expectations and Review

- a) Should the Commission undertake to set and review performance standards other than those required by DAS?
  - i. Statutory considerations
    - a. ORS 151.216 requires the Commission to engage in oversight activities. The Commission can affect OPDC staff only through its influence on and input with the Executive Director.
    - b. ORS 151.213(9)(a): During 2025, the Commission has no formal input into the hiring or termination of the ED. However, beginning in January, 2026, the Governor must consult with the Commission before appointing a new ED.<sup>1</sup>
    - c. ORS 151.213(9)(b): During 2025, the ED serves at the Governor's pleasure. Beginning in 2026, the Governor can remove the ED "for just cause."

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<sup>1</sup> ORS 151.213(d): "As used in this subsection, "consultation with the commission" must include, but is not limited to, consulting with the chairperson of the commission prior to the recruitment of a new executive director, allowing the chairperson or another commission member designated by the chairperson to participate in the interview process, and allowing commission members to review and provide comment on the top three candidates prior to the final appointment."

- ii. Administrative considerations include at least the following:
  - a. Does the DAS review provide the information it needs for its oversight responsibilities?
  - b. Is any additional information that would be gleaned worth the time and other resources needed to establish additional expectations and conduct additional review?
  - c. If there is an additional review, does it have to cover every stated performance expectation?
  - d. Who would be asked to give input to an additional review?
- b) Possible sources for additional performance expectations
  - i. ORS 151.219 (version effective 1/24/25 attached) sets out Executive Director (ED) duties.
    - a. Should all of these be automatically in the performance standards?
    - b. Should the performance standards incorporate aspects of these duties (e.g., efficiency in carrying out the duty)?
  - ii. In 2024, while still in the judicial branch of government, the Governance Subcommittee considered (but did not undertake) an ED performance review. The subcommittee listed the following, discussing whether some (but not all) might be included:
    - 1. Articulates a compelling vision for Oregon's public defense system, and the agency's responsibility to ensure that all persons who qualify for public defense services receives constitutionally adequate and effective legal representation.
    - 2. Communicates pertinent information to Oregon Public Defense Commission's commissioners.
    - 3. Facilitates OPDC commission meetings and subcommittee meetings.
    - 4. Educates OPDC commissioners.
    - 5. Regularly consult with OPDC chair and vice chair about the status of the agency's work and any emerging issues.
    - 6. Identifies agency risks to the commissioners.
    - 7. Provides quality assurance check on commission meeting materials.
    - 8. Communicates with statewide leadership.
      - a. Meets with Governor's public safety advisor.

- b. Sends monthly memo to Governor's public safety advisor
- c. Meets with DAS chief financial officer
- d. Attends DAS All Agency Director meetings
- e. Meets with peer mentor.
- f. Meets with Chief Justice and State Trial Court Administrator to consult on shared work.
- g. Meets with presiding judges and trial court administrators across Oregon.
- h. Meets with legislative fiscal officer to share and receive feedback about the agency's budget and fiscal strategy.
- i. Meets with legislative leadership including co-chairs of ways and means, public safety subcommittee of ways and means, and judiciary.
- j. Meets with legislators to educate about the work OPDC is doing.
- k. Testifies at legislative hearings upon request.
- l. Provides quality assurance check on legislative materials.

#### 9. Correspondence

- a. Corresponds via newsletter, email, phone, and remote or in-person meetings with persons who have an interest in OPDC's work.
- b. Communicates with the media by providing written statements and interviews.
- c. Participates in advisory groups.

#### 10. Management

- a. Communicates vision and priorities to executive team and all staff.
- b. Decides agency's operational structure.
- c. Supports strategic planning and measuring agency's performance.
  - i. Strategic planning for public defense
  - ii. Strategic planning for the agency

- iii. Consult with subject matter experts
  - d. Hires, supervises, and disciplines direct reports: deputy director, general counsel, appellate chief defender, juvenile appellate chief defender, government relations manager, and chief financial officer.
  - e. Meets one-on-one and in group meetings to review and prioritize work.
  - f. Conducts quarterly performance evaluations.
  - g. Ensures that work continues to move forward, identify emerging issues, and solve problems.
  - h. Makes final decisions and communicate decisions to the executive team and all staff.
  - i. Consults with internal audit to facilitate audits and to learn about agency risk.
  - j. Review and sign contracts with third parties
- 11. This individual promotes a customer service centered organization.
- 12. This individual collaboratively manages the resources they are entrusted with to achieve the best possible outcomes for Oregonians.
- 13. This individual embraces and leads through change.
- 14. This individual creates and fosters an environment where everyone has access and opportunity to thrive.
- 15. This individual owns and takes responsibility for quality of outcomes for Oregonians.
- 16. This individual aligns to the goals and direction of the Governor.
- 17. This individual operates with urgency, transparency, and accountability.
- 18. This individual is honest and transparent regardless of the situation.
- 19. This individual is consistent in communicating to their own agency what is happening at the enterprise level (executive branch).
- 20. This individual regularly shares what is happening within their agency.
- 21. This individual builds DEI organizational capacity.

22. This individual fosters and promotes an inclusive workplace environment.
23. What are some leadership strengths you've observed in this individual?
24. What are some leadership opportunities for growth in this individual?

**ORS 151.219. Executive director; duties**

(1) The executive director of the Oregon Public Defense Commission shall:

- (a) Designate a deputy director of the commission who serves at the pleasure of the executive director.
- (b) Hire necessary staff for the commission.
- (c) Recommend to the commission how to establish and maintain, in a cost-effective manner, the delivery of legal services to persons entitled to, and, where applicable, financially eligible for, appointed counsel at state expense under Oregon statutes, the Oregon Constitution, the United States Constitution and consistent with Oregon and national standards of justice.
- (d) Implement and ensure compliance with contracts, policies, procedures, standards and guidelines adopted by the commission or required by statute
- (e) Prepare and submit to the commission for its approval the biennial budget of the commission.
- (f) Negotiate contracts, as appropriate, for providing legal services to persons eligible for appointed counsel at state expense in accordance with [ORS 151.216 \(5\)](#) and [\(6\)](#).
- (g) Employ personnel or contract for services as necessary to carry out the responsibilities of the executive director and the commission.
- (h) Supervise the personnel, operation and activities of the commission.
- (i) Provide services, facilities and materials necessary for the performance of the duties, functions and powers of the commission.
- (j) Pay the expenses of the commission.
- (k) Prepare and submit to the members of the commission an annual report of the activities of the commission.
- (L) Provide for legal representation, advice and consultation for the commission, its members, the executive director and staff of the commission who require such services or who are named as defendants in lawsuits arising from their duties, functions and responsibilities. If requested by the executive director, the Attorney General may also provide for legal representation, advice and consultation for the commission, its members, the executive director and staff of the commission in litigation.
- (m) Maintain an accurate and current list of all attorneys providing public defense services in this state under the supervision, employment or contractual authority of the commission, and the qualifications for each attorney.

(2) The executive director may:

- (a) Designate persons as representatives of the executive director for the purposes of determining and paying bills submitted to the commission and determining preauthorization for incurring fees and expenses under [ORS 135.055](#).
- (b) Establish an external advisory group to assist in developing the standard operating expectations for persons and entities providing public defense services



Bi-Annual Agency Performance Reviews  
Process for Directors of Small Independent Agencies, Boards, and Commissions



## STEP ONE - Preparation

Small independent agencies, boards, and commissions will complete agency head 360 evaluation following review timeline within statute, or at least every two years. Agency head must be in the role for at least a year before the Performance Review is conducted.

Agency Director and/or Board Chair or other delegate will work together and with HR manager (where applicable) to create a contact list and number of evaluators in the following categories:

All Direct Reports and/or Executive Team Members	As applicable
Parties of Interest (party benefits in some way from the relationship)	Up to agency discretion <i>best practice = 12-15 evaluators</i>
Peers	
Board and Commission members	Where applicable
Agency Labor Leaders	Where applicable

*\*Evaluators should be selected who have the most access and interaction with agency Director*

## STEP TWO - Communication

### Email announcement

Board Chair/HR Manager or other delegate will send an email (example text below) to every evaluator notifying them that they've been selected to provide feedback on the Agency Director, and provide feedback platform (e.g. survey link, email, etc.).

#### **Email Template Example** (From Board Chair/HR Manager)

Dear <evaluator's name>,

*In order to meet Governor Kotek's expectations that each agency Director and Executive Director be evaluated every 2 years, your name was provided by <Director's Name> of <Agency Name> to provide feedback on their performance. Below please find the link/option to complete your feedback.*

*The survey is composed of mostly multiple-choice questions with an opportunity to provide any additional comments you like. The survey should take no more than 20 minutes to complete. The answers will be amalgamated and anonymous. A summary of the multiple-choice results will be shared with the Board/Commission, Governor's Office and DAS Director to review with the Director. Please note, optional text fields will also be summarized and anonymous, your name will NOT be attributed to any responses. Please complete and submit the survey no later than 14 days to the date you received this invitation.*

*If you have process questions, please contact:  
Board Chair, HR Manager or other delegate*

## Bi-Annual Agency Performance Reviews Process for Directors of Small Independent Agencies, Boards, and Commissions



### Schedule

Agency Directors will have a Performance Review at least every two years. Agency Director needs to be in the role at least 1 year prior to the first performance review. (Note: [schedule](#) is subject to change depending on agency head start dates or other factors impacting timeline.)

### Survey completion timeline

Evaluators will have two weeks (10 working days) from receiving request to complete the survey.

### Reminder emails

Board Chair/HR Manager or other delegate will send out reminder email to evaluators, one week prior to the deadline, and another reminder the Friday before the Monday deadline.

## STEP THREE - Completion

Evaluators to complete the Agency Performance Review survey. See survey questions starting on page 3.

### Thank You emails

It is recommended that Agency Directors send out a thank you to each evaluator thanking them for taking time to fill out the survey and providing feedback. To help, Agency Directors will be provided with the thank you template below.

*Dear <Evaluator>.*

*Thank you for taking time to provide feedback on my performance as Director of <Agency name>. The feedback given provided important data that strengthens our organization and demonstrates <Agency name> commitment to the Governor's priorities of accountability and transparency in state government.*

*Your contribution to this process is appreciated.*

*<Director's name>*

*<Agency name>*

## STEP FOUR – Evaluation

### Performance Evaluation Report

Board Chair/HR Manager or other delegate will collect the data and aggregate it into an executive summary with the following elements:

- Director's Name
- Agency Name
- Number of responders, categories represented if available
- Aggregated scores for each of the survey questions
- Additional summarized comments and feedback



## STEP FIVE – Sharing the Results

The following process will be followed for distribution of results.

- Beginning July 2024 the Agency Head will receive notice from CHRO at least 60-days in advance of their [review month](#). (Note: [schedule](#) is subject to change depending on agency head start dates or other factors impacting timeline.)
- Agency Head Performance Reviews are expected to be completed by the end of month in which they are scheduled.
- Upon closing of the Performance Review Survey, Board Chair/HR manager or other delegate will send the Agency Head Summary Document to CHRO.
- CHRO will simultaneously send the completed Performance Review document/report to the Agency Director and the State COO, to ensure all parties have ample time to review the results of the evaluation.
- COO will share the Performance Review Document with the appropriate Governor's Office staff/Board Chair and schedule a meeting with the Agency Head within 30-days of receiving the Performance Review Survey results.
- Following the COO/Gov Office meeting with the Agency Head, any identified areas for assistance will be shared with appropriate DAS groups to develop plans to assist the agency in addressing identified goals.



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SMALL BOARDS AND COMMISSIONS MAY CHOOSE TO ADD ADDITIONAL QUESTIONS THAT APPLY TO THEIR BUSINESS; HOWEVER, THE FOLLOWING QUESTIONS MUST ALSO BE INCLUDED IN THE FEEDBACK REQUEST.

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**What is your professional relationship with this individual director?**

- *Direct report/ executive team member*
- *Person of interest*
- *Peer*
- *Board or Commission member (if applicable)*
- *Union leader*
- *Self (opportunity for self-evaluation)*

**Are you a Board/Commission Member?**

- Yes (If yes is chosen the following questions will apply)

**Additional Board or Commission Agency Questions (for board members)**

- What has the board done well or effectively to support the director?
- What might the board have done differently?
- What support is needed from the board moving forward?
- Please add these questions to the survey:

○

- No

**Additional Board or Commission Agency Questions (for the executive director's self-survey)**

- What has the board or commission done well or effectively to support you in your role?
- What might the board have done differently?
- What support do you need from the board moving forward?

**This individual promotes a customer service centered organization.**

1. Unacceptable
2. Acceptable
3. Effective
4. Very Effective
5. No opportunity to observe

**This individual collaboratively manages the resources they are entrusted with to achieve the best possible outcomes for Oregonians.**

1. Unacceptable
2. Acceptable
3. Effective
4. Very Effective
5. No opportunity to observe

**This individual embraces and leads through change.**

1. Unacceptable
2. Acceptable
3. Effective
4. Very Effective
5. No opportunity to observe



**This individual creates and fosters an environment where everyone has access and opportunity to thrive.**

1. Unacceptable
2. Acceptable
3. Effective
4. Very Effective
5. No opportunity to observe

**This individual owns and takes responsibility for quality of outcomes for Oregonians.**

1. Unacceptable
2. Acceptable
3. Effective
4. Very Effective
5. No opportunity to observe

**This individual aligns to the goals and direction of the Governor.**

1. Unacceptable
2. Acceptable
3. Effective
4. Very Effective
5. No opportunity to observe

**This individual operates with urgency, transparency, and accountability.**

1. Unacceptable
2. Acceptable
3. Effective
4. Very Effective
5. No opportunity to observe

**This individual is honest and transparent regardless of the situation.**

1. Unacceptable
2. Acceptable
3. Effective
4. Very Effective
5. No opportunity to observe

**This individual is consistent in communicating to their own agency what is happening at the enterprise level (executive branch).**

1. Unacceptable
2. Acceptable
3. Effective
4. Very Effective
5. No opportunity to observe

**This individual regularly shares what is happening within their agency.**

1. Unacceptable
2. Acceptable
3. Effective
4. Very Effective
5. No opportunity to observe



**This individual builds DEI organizational capacity.**

1. Unacceptable
2. Acceptable
3. Effective
4. Very Effective
5. No opportunity to observe

**This individual fosters and promotes an inclusive workplace environment.**

1. Unacceptable
2. Acceptable
3. Effective
4. Very Effective
5. No opportunity to observe

**What are some leadership strengths you've observed in this individual?**

**What are some leadership opportunities for growth in this individual?**

**Additional comments or feedback**