Hearing Procedures Rules Advisory Committee
Meeting Summary

Date/Time: October 22, 2026, 1:00 – 3:00pm

Meeting Summary: A Rule Advisory Committee (RAC) was convened to provide feedback about how to improve and update hearing procedure rules found in Divisions 50 (GEI), 200 (Civil Commitment), and 550 (Juvenile/REI). RAC members discussed rule concepts previously identified by PSRB staff and proposed ideas for potential rulemaking based on their experience and knowledge of existing rules.

RAC Members & Attendance

Name	Affiliation	Present
Members		
Bailey Squires Moody	Public Defender Services of Lane County	X
Brian Scherman	Youth Rights & Justice	X
Elisabeth Waner	Department of Justice	X
Harris Matarazzo	Defense Attorney	X
James Aaron	Department of Justice	X
Keir Boetcher	Department of Justice	
Kristine D. Karr	Department of Justice	
Laura Rowan	Department of Justice	
Lisa Kay	Youth Rights & Justice	
Megan Auclair	Oregon Health Authority	
Mike Botthof	Department of Justice	
Nathan Frommer	Oregon State Hospital	X
Reid Kajikawa	Public Defender Services of Lane County	
Tara Gardner	Department of Justice	
Weston Koyama	Defense Attorney	X
Rules Coordinators		
Alysson Bocciolatt	PSRB	X
Alison Bort	PSRB	X
Katrina Elison	PSRB	X

Welcome, Introductions, & RAC Orientation

Link to Presentation: RAC 1

Alysson Bocciolatt opened the meeting at 1:01pm and explained that the meeting was being recorded and would be shared according to Public Meeting Law. RAC members and PSRB Rules Coordinators introduced themselves. Alysson provided an explanation of the purpose of RACs as part of the agency rulemaking process and described the specific objectives of this comittee:

- Review and support the revision of hearing procedure rules for GEI (Division 50), Civil Commitment (Division 200), and REI (Division 550).
- Identify existing rules that are outdated, cumbersome, unclear, or otherwise need amending and the need for new rules to be introduced,
- Review draft rule text,
- Provide input on whether an identified issue would be best addressed through rule or another mechanism (e.g. policy or procedure).

Review of Rulemaking Concepts from PSRB Staff

Alysson led a conversation about the nine rule concepts that were shared in advance with the agenda. These rule ideas were gathered from PSRB staff. Alysson requested RAC members to weigh in on whether the concept was suitable for rulemaking or could be addressed through a different mechanism, such as policy or procedure. RAC members voted in support of or against rulemaking and then discussed the issue.

1. ***Document Requests for Upcoming Hearings:*** *Rule describing what documents must be submitted, deadlines, and how attorneys submit materials*

Comments from RAC Members Supporting:

- Supported the idea of codifying expectations. Clear deadlines benefit both defense and state. Emphasized need for an easy, streamlined submission system.
- Supported rulemaking, noting that court systems often define these timelines. Sees value in aligning PSRB practice with broader legal norms. Echoed previous comment of making the submission easy.

Comments from RAC Members Opposing:

- Does not see the need for a rule; Viewed late exhibits as a non-issue from the state's perspective; rarely receives late documents from defense. More often sees late submissions from hospitals.
- Opposed rulemaking; sees this as better addressed via policy and training because late entries from the State Hospital usually come from new doctors unfamiliar with expectations.
- Opposed rulemaking; Has not observed significant prejudicial issues with late filings. Believes the Board would not refuse evidence simply because it was late. Asked what problem PSRB was trying to solve. Indicated that the Board had a rule 40 years ago that was repealed or replaced.

Agency Response

- Alysson acknowledged differences in perspective and described the purpose as improving efficiency and clarity.

Outcome: Mixed support; several saw value, others saw little need. The concept requires further refinement and a draft rule may be needed for the RAC to provide additional input.

2. ***Clarifying "Goes to Attorney" Materials & Timely Disclosure:*** *Rule describing what documents are disclosed to counsel and establishing timelines for the Board to disclose information to ensure counsel has sufficient time for meaningful case preparation.*

Comments from RAC Members Supporting:

- Supported written guidelines and indicated interest in being involved in developing rule language.
- Supported; argued that defense should receive at least what the state receives. Advocated robust discovery akin to criminal procedure and making it explicit in rule that parties have access to the same information.
- Supported rule that Board provides timely disclosure and defining what "timely disclosure" is.

Comments from RAC Members Opposing:

- Clarified the state does not receive special access beyond FileCloud and acknowledged need for clarity but questioned whether a rule is necessary because, in practice, everyone has access to the same information.

Discussion on ex parte communications:

- Alison explained that staff occasionally receive letters/emails from one party without the other copied, creating appearance concerns. The current expectation is that that correspondence is being summarized in some sort of written format, and then it's being made an exhibit.
- A member emphasized ethical duties to copy opposing counsel on communications with Board staff.
- A member recommended codifying procedures restricting ex parte communication with PSRB staff to avoid perceived impropriety.
- A member noted that patients sometimes contact PSRB directly and may not understand the process; rules could clarify how staff handle those communications.

Agency Response:

- Alison emphasized the desire for rule based clarity, particularly around routine communication with staff that does not involve Board members.

Outcome: Significant support for clarifying disclosure requirements and communication protocols; recognized as an area suitable for rulemaking. The Board will continue reviewing the issue for rulemaking.

3. ***Remote Hearing Procedures:*** *Rule currently allows parties to request in-person hearings with written notice. Should this exception remain or be eliminated?*

Comments from RAC Members Opposing:

- Strongly opposed permanent remote hearings; advocated in favor of in-person hearings to allow better assessment of credibility and show clients that the Board is engaged. Believes remote format disadvantages individuals with certain psychotic symptoms involving technology. Shared perspective that clients may interpret remote hearings as a matter of convenience.
- Opposed; sees therapeutic and procedural value of in-person hearings, especially for clients with psychosis involving technology.
- Opposed additional rulemaking; current arrangement is working.

Comments from RAC Members Supporting:

- In regard to suggestion from another RAC member that all hearings be held in-person: Many juvenile clients prefer remote hearings; notes transportation questions must be clarified if in-person hearings are reinstated.
- Supported continuation of remote hearings; believes remote format equalizes access for geographically dispersed witnesses and parties. Not opposed to occasional in-person hearings when appropriate.
- Supported remote hearings for accessibility and practicality; believes they improve overall timeliness and reduce burdens on clients and counsel. Prefers remote hearings as the norm and in-person as the exception upon request.

Agency Response:

- Alison provided background on the Board's transition to remote hearings, noting that hearings are remote not as a matter of convenience for the Board, but for various other reasons that were previously contemplated before the current rule was adopted, including:
    - Significant volume of hearings and scheduling demands,
    - Logistics of transport to OSH, clarifying that hearings have always been remote for Junction City,
    - Existing rule already allows in-person hearings by written request, and
    - No formal requests for in-person hearings have been submitted.
- Alison emailed a 2021 memo explaining the Board's rationale for remote hearings to RAC members.

Outcome: Divided perspectives; further discussion and consideration required before changing the status quo. Board is not considering reinstating in-person hearings as customary but maintains the exception provided in the current rule.

4. ***Hearings Expected to Exceed Two Hours:*** *Rule instating a motion requirement to inform the Board when a hearing will need more than 2 hours.*

Comments from RAC Members Supporting:

- Supported; believes it is a professional courtesy to estimate hearing length and offered example of this expectation existing in trial courts. Helps reduce backlog and would benefit everyone. Does not require exact prediction and attorneys are capable of providing estimates.

Comments from RAC Members Opposing:

- Opposed; cannot reliably predict length of witness testimony; burden of time estimations belongs with the administrative body (PSRB), not attorneys. Would not want to be held responsible as an attorney for providing an inaccurate estimate of how much time is required for a hearing.
- Opposed; stated longer hearings usually result from factors outside the client's control—late starts, Board questioning, witness issues. Would be supportive of rules around the length of time for hearings but more from the sense of protecting the client's right to have their full hearing and not be pressured to shorten their hearing because a hearing scheduled earlier in the day took more than its allotted time.
- Opposed; Board, like any tribunal, needs to manage its calendar. Rule may detriment other clients needing to be heard.
- Opposed; offered that the Board can say no to providing extra time and questioned what would happen in that scenario.

Agency Response:

- Alison noted one attorney explicitly refused to provide time estimates unless required by rule, prompting staff to consider formalizing expectations.
- Alysson acknowledged the hesitations expressed by counsel regarding estimating time and indicated that the Board will consider the feedback.

Outcome: Mixed but leaning negative; many see logistical value but worry about fairness and practicality. Board will continue to review this issue for rulemaking.

5. ***Timeline for Submitting Exhibits:*** *Rule specifying deadlines for submitting exhibits*

- RAC collectively recognized this concept was duplicative of Concept 1.

Outcome: Address this as part of concept 1. No further analysis needed.

6. ***Processes for Conditional Release to DOC:*** *Rules clarifying procedures and information-sharing when a person is conditionally released to DOC to provide counsel with enough information to request modifications, hearings, or prepare for scheduled hearings.*

Comments from RAC Members Opposing:

- PSRB cannot impose obligations on DOC by rule, and therefore PSRB should be careful not to attempt regulation beyond its authority. Recommended Memorandum of Understanding.

Comments from RAC Members Supporting:

- Supported revisiting the entire DOC/PSRB dual-jurisdiction process and recommended broader structural clarification in addition to rulemaking.

Agency Response:

- Alison clarified the intent is internal process improvement within PSRB—not imposing obligations on DOC. The key issue is lack of sufficient information during incarceration for attorneys to advise clients meaningfully.

Outcome: Recognized as a significant structural issue needing broader analysis; appropriate for future rulemaking but requires development of clearer language and purpose.

7. ***Community Evaluations: Requirements & Standards:*** *Rules outlining community evaluation requirements and standards, including when PSRB can order an evaluation without a hearing.*

Discussion about terminology ("risk review") led to clarifying discussion:

- A member inquired whether "risk review" meant OSH's internal risk review committee, which evaluates patients before recommending conditional release, and whether rule proposed to require OSH's risk review group to participate in community evaluations.
- Alison clarified that "risk review" was being referenced because the hospital's risk review minutes are one of several documents currently used administratively to support a PSRB order for a community evaluation without a hearing. Comments from RAC Members Supporting:
- Supported; believes clearer definitions of evaluation prerequisites help attorneys and clients. Asked whether PSRB rule could bind OSH policy and Alison clarified that PSRB could not. Goal of this rulemaking is not to regulate OSH, but to codify Board's process for ordering evaluations without a hearing when certain documents are available.
- Two members expressed support after further clarification of the concept.

Outcome: After clarifications, RAC members understood the purpose of Concept 7 and expressed support for rulemaking to add transparency and consistency to PSRB's community-evaluation ordering process.

8. ***Scope of Hearing:*** *Rule defining issues to be addressed at specific hearing types to reduce last-minute shifts in burden and continuances.*

Comments from RAC Members Supporting:

- Mildly supportive; state sometimes experiences unexpected burden shifts, but the issues are generally limited. Board may want to define this, but it may not be impactful in practice.

Comments from RAC Members Opposing:

- Opposed; Concerned rules could restrict a client's statutory right to raise issues at their hearing.
- Opposed; Stated the core issues in hearings are already simple: commitment vs. release. Questions whether further definition is necessary.

Agency Response:

- Alison clarified the intent of limiting the scope of certain hearing types would be to manage the docket, prevent surprise burden shifts, and preserve due process by ensuring appropriate notice. Alison gave an example of an outpatient supervisor requesting a conditional release modification, prompting the state to ask for a full hearing. However, at the hearing, the patient shifts their request to a full discharge, even though neither the outpatient supervisor nor hospital supports that outcome. This shifts the burden of proof to the state, even though the original issue was not a discharge request. Alison noted that this creates procedural problems and emphasized the need for rules that clearly define when burdens shift to another party.

Outcome: Mostly negative feedback; questions remain about the usefulness of defining issues and burdens depending on the hearing type. The concept requires further refinement, and a draft rule may be needed for the RAC to provide additional input.

9. ***Clarifying When Burden Shifts to the State:*** *Rules to define when burden would shift from defense to the state before or during a hearing.*

Comments from RAC Members Supporting:

- Strongly supportive; believes clarity helps everyone, including Board members who sometimes question who bears the burden during hearings.
- Initially saw no issue but, after clarification about when this becomes an issue, recognized potential value of clearly defining when burden shifts.

Comments from RAC Members Opposing:

- Opposed; This is a non-issue. Concerned rulemaking could inadvertently shift burden onto clients.

Agency Response:

- Alison explained that burden shifts can become challenging because hearing requests and positions may change between scheduling and the day of the hearing. Alison emphasized the need for clearer rules stating that the state bears the burden only when a supported request is at issue, and that a patient-initiated discharge request should carry a patient burden, not a state burden.

Outcome: No consensus was reached. This idea will be considered with Concept 8 for further refinement and rule development.

Additional Concepts from RAC Members

Alysson provided the Start, Stop, Continue framework for RAC members to consider other hearing procedure rule issues that were not already addressed in the previous discussion. Alysson solicited input regarding rules that could be adopted, repealed or amended.

- A member requested revision of OAR 859-050-0030 (Evidence Considered; Admissibility), stating that it is overly broad and allows introduction of evidence without proper testimony.
- A member suggested a rule defining time limits between hearing and issuance of written order; some orders exceed statutory 30-day window. Another member noted the existing statutory requirement for timely orders and suggested enforcement rather than rulemaking.

No additional suggestions or comments to improve the rules were provided by the committee.

Next Steps & Anticipated Dates

Alysson explained additional follow-up steps:

- Alison invited RAC members to request background documents or additional information to better inform future meetings (e.g., memos on remote hearings).
- PSRB will post the recording and meeting summary on the rulemaking page. Alysson will share links with RAC members via email.
- PSRB will consider recommendations of this RAC and continue to review hearing procedure rules and evaluate issues to determine which are prepared to move toward rule drafting. The goal is to have draft rules to share with the RAC prior to the next meeting.
- **Next RAC meeting proposed for December 3, 2026, 1-3 pm.** Alysson will share a calendar invite.

Adjourn

The meeting was adjourned at 2:58 pm.

For additional information, contact: Alysson Bocciolatt, Alysson.Bocciolatt@psrb.oregon.gov