

192.461 Public Records Advocate. (1) The office of the Public Records Advocate is created. **The Public Records Advocate shall function separately and independently from any other state agency.**

(2) The Public Records Advocate shall be appointed by the ~~Governor from among a panel of three qualified individuals nominated by the~~ Public Records Advisory Council under ORS 192.481 ~~section 8, chapter 728, Oregon Laws 2017, and shall be confirmed by the Senate in the manner prescribed in ORS 171.562 and 171.565.~~

(3) The Public Records Advocate shall be a member in good standing of the Oregon State Bar.

(4) The term of office of the Public Records Advocate shall be four years, except that the advocate may be removed for cause by ~~the Governor or upon motion of~~ the Public Records Advisory Council under ORS 192.481 ~~with the consent of the Governor.~~ A determination to remove for cause may be appealed as a contested case proceeding under ORS chapter 183.

(5) The advocate may be reappointed to consecutive terms.

(6) The Public Records Advocate is in the ~~unclassified-exempt~~ service.

~~(7) The Public Records Advocate may hire one or more deputy advocates or other professional staff to assist in performing the duties assigned to the Public Records Advocate.~~ **(a) The Office of the Public Records Advocate is exempt from ORS Chapter 240.**

(b) The Public Records Advocate shall select, appoint and fix the compensation of a person as Deputy Public Records Advocate and may select, appoint and fix the compensation of other professional staff the Public Records Advocate deems necessary to discharge the Public Records Advocate's responsibilities under ORS 192.464 to ORS 192.475 and Sections 8, 9, 10, 13 and 15, chapter 728, Oregon Laws 2017.

(8)(a) The Deputy Public Records Advocate shall be a member in good standing of the Oregon State Bar.

(b) The Public Records Advocate may delegate to the Deputy Public Records Advocate any authority, power or duty to act in the Public Records Advocate's stead, except this power of delegation.

(c) If the position of Public Records Advocate becomes vacant for any reason, the Deputy Public Records Advocate shall serve as acting Public Records Advocate until a new Public Records Advocate has been appointed for a full term.

~~(89)(a) The State Archivist may furnish office facilities and provide administrative support to the Public Records Advocate.~~

~~(b) If the State Archivist declines to furnish office facilities and provide administrative support to the Public Records Advocate, the Oregon Department of Administrative Services shall furnish office facilities and provide administrative support to the advocate. [2017 c.728 §1]~~

(109)(a) The Public Records Advocate Fund is established in the State Treasury, separate and distinct from the General Fund.

(b) Moneys in the Public Records Advocate Fund are continuously appropriated to the Public Records Advocate for the purpose of funding the operations of:

(A) The office of the Public Records Advocate; and

(B) The Public Records Advisory Council.

Commented [TA1]: This language is from ORS 441.403, enacted in the 1980s, creating the Long Term Care Ombudsman, one of the few other "for cause" governor-appointed agency leadership positions in state government. Otherwise, use the language from 2020 SB 1506: "The office of the Public Records Advocate is created as an independent office in the executive department."

Commented [TA2]: DAS HR stated that the unclassified service is for at-will appointees. "For cause" appointees must be in the exempt service.

Commented [TA3]: I added this section based on Adam's feedback at the 4/29 PRAC meeting.

Commented [TA4]: A true deputy needs to be able to stand in the place of an agency director. Therefore, they should have the same qualifications, specifically admission to the Oregon state bar.

Commented [TA5]: These changes emphasize the Advocate wearing their "agency director" hat, gives the Advocate clear control over hiring and compensation (limited by the budgetary process), and formalizes the agency structure, leadership/management, and temporary succession in the Advocate's absence, which eliminates confusion and outside interference.

Commented [TA6]: ORS 192.481(3) may need to be amended to reflect this change.

Commented [TA7]: This section must be eliminated if the office is to be independent.

Commented [TA8]: This is taken from the -16 (penultimate) amendment to 2017 SB 106, and had the full support of the Governor's office prior to the -17 placing the office budget under DAS COO for an unspecified reason. [Read SB 106-16, Section 17.](#)