



**Oregon Administrative Rules  
1998 Compilation**

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**Oregon Administrative Rules  
1998 Compilation**

**SECRETARY OF STATE, ELECTIONS DIVISION**

**DIVISION 1**

**PROCEDURAL RULES**

**165-001-0000**

**Notice of Proposed Rule**

Prior to the adoption, amendment or repeal of any rule, the Secretary of State, Elections Division shall give notice of the proposed adoption, amendment, or repeal:

- (1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date.
- (2) By mailing one copy of the Statement of Need and Fiscal Impact and form SED 423, Notice of Proposed Rulemaking, or form SED 424, Notice of Proposed Rulemaking Hearing, at least 28 days prior to the effective date, to each person who has requested to be included on the Elections Division's administrative rules mailing list established pursuant to ORS 183.335(7).
- (3) By mailing one copy of the text of the proposed rule to any person upon request;
- (4) By mailing a copy of the Statement of Need and Fiscal Impact, form SED 423 or SED 424, and the text of the proposed rule to the following persons at least 28 days prior to the effective date:
  - (a) County Clerks;
  - (b) Democratic State Central Committee Chair or designee;
  - (c) Republican State Central Committee Chair or designee;
  - (d) Chair or designee of each statewide minor political party;
  - (e) Majority and Minority Leadership of the Oregon Legislature;
  - (f) Attorney General's Office.
- (5) Within 10 business days after the adoption, amendment or repeal of any administrative rule, the Secretary of State, Elections Division shall mail one copy of form SED 425a, Certificate and Order for Filing Permanent Administrative

Rules, or form SED 425b, Certificate and Order for Filing Temporary Administrative Rules, to each person who has requested to be included on the Elections Division's administrative rules mailing list established pursuant to ORS 183.335(7).

(6) One copy of the text of any adopted rule shall be mailed to any person upon request.

(7) Within 10 business days after the adoption, amendment or repeal of any administrative rule, the Secretary of State, Elections Division shall mail one copy of form SED 425a or SED 425b, and the text of the adopted administrative rule, to each person listed in section (4) of this rule.

Stat. Auth.: ORS 183.341

Stats. Implemented: ORS 183.341

Hist.: SD 103, f. & ef. 1-22-76; Elect 16-1994, f. & cert. ef. 8-25-94; ELECT 9-1997, f. & cert. ef. 10-27-97

**165-001-0005**

**Model Rules of Procedure**

Divisions 1 and 2 of the Model Rules of Procedure as promulgated by the Attorney General of the State of Oregon under the Administrative Procedures Act effective November 4, 1991, are adopted as the Rules of Procedure for Administrative Rulemaking and Declaratory Rulings for the Elections Division, Secretary of State.

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

Stat. Auth.: ORS Ch. 183

Stats. Implemented: ORS 183.341

Hist.: SD 76, f. 8-31-72; SD 81, f. 10-16-73, ef. 11-11-73; SD 109, f. & ef. 12-9-76; SD 6-1978, f. & ef. 8-4-78; SD 10-1980, f. & ef. 1-30-80; SD 16-1981, f. & ef. 12-2-81; SD 15-1983, f. & ef. 10-4-83; SD 7-1986, f. & ef. 3-6-86; ELECT 30-1988, f. & cert. ef. 8-10-88; ELECT 16-1990, f. & cert. ef. 5-11-90; ELECT 14-1991, f. & cert. ef. 12-4-91

**165-001-0010**

**Contested Cases**

Contested Case Defined:

- (1) Contested case rules apply whenever the Secretary of State may impose a civil penalty and a hearing is conducted pursuant to ORS 260.232 or 260.995.
- (2) The Secretary of State may designate in writing employees of the agency or any other persons to conduct hearings under these rules.
- (3) The person or persons against whom a penalty may be assessed is the party in the contested case hearing. Other persons may attend the hearing and may appear as witnesses if called by a party, but will not be considered to be parties in the contested case.
- (4) "Person" means an individual or a corporation, association, firm, partnership, joint stock company, club, organization or other combination of individuals having collective capacity.

Stat. Auth.: ORS 183.335, 183.360, 183.413, 246.150, 260.232 & 260.995

Stats. Implemented: ORS 260.232 & 260.995

Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88; ELECT 27-1993, f. & cert. ef. 7-1-93

**165-001-0015**

**Notice of Opportunity for Hearing**

When the Secretary of State proposes to impose a civil penalty under ORS 260.232 or 260.995, the Secretary of State shall cause a notice to be served by certified mail and regular mail on the person subject to the penalty. The notice shall include:

- (1) A statement of the person's right to a hearing, or a statement of the time and place of the hearing.
- (2) A statement that if the party desires a hearing, the agency must be notified within the number of days provided by statute from the date of receiving the notice.
- (3) A statement of the authority and jurisdiction under which the hearing is to be held.
- (4) A reference to the particular sections of the statutes and rules involved.
- (5) A short and plain statement of the matters asserted or charged as a violation.
- (6) A statement of the amount of penalty that may be imposed.
- (7) A statement that the party may be represented by counsel at the hearing.
- (8) If the person is an agency, corporation or an unincorporated association, that such person must be represented by an attorney licensed in Oregon, unless the person is a political committee which may be represented by any officer identified in the most recent statement of organization filed with the filing officer:
  - (a) If the hearing is held under ORS 260.232: If the person is an agency, corporation or an unincorporated association (including a political committee) that such party must be represented by an attorney licensed in Oregon;
  - (b) If the hearing is held under ORS 260.995: If the person is an agency, corporation or an unincorporated association, that such person must be represented by an attorney licensed in Oregon, unless the person is a political committee which may be represented by any officer identified in the most recent statement of organization filed with the filing officer.
- (9) A statement that the record of the proceeding to date, including the agency file or files on the subject of the contested case, automatically become part of the contested case record upon default for the purpose of proving a prima facie case.
- (10) The person against whom a penalty may be assessed need not appear in person at a hearing held under ORS 260.232 or 260.995, but instead may submit written testimony and other evidence, sworn to before a notary public, to the Secretary of State for entry in the hearing record. Such documents must be received by the Secretary of State not later than five days prior to the hearing as provided by OAR 165-001-0040(5).

Stat. Auth.: ORS 183.335, 183.360, 183.413, 246.150, 260.232 & 260.995

Stats. Implemented: ORS 260.232 & 260.995

Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88; ELECT 27-1993, f. & cert. ef. 7-1-93

## **165-001-0020**

### **Rights of Parties in Contested Cases**

(1) The information required to be given under ORS 183.413(2) before commencement of a contested case hearing shall include:

(a) If the party is an agency, corporation, or an unincorporated association, that such party must be represented by an attorney licensed in Oregon:

(A) If the hearing is held under ORS 260.232: If the person is an agency, corporation or an unincorporated association (including a political committee) that such party must be represented by an attorney licensed in Oregon;

(B) If the hearing is held under ORS 260.995: If the person is an agency, corporation or an unincorporated association, that such person must be represented by an attorney licensed in Oregon, unless the person is a political committee which may be represented by any officer identified in the most recent statement of organization filed with the filing officer.

(b) If a party is not represented by an attorney, a general description of the hearing procedure including the order of presentation of evidence, what kinds of evidence are admissible, whether objections may be made and an explanation of the burdens of proof or burdens of going forward with the evidence;

(c) Whether a record will be made of the proceedings and the manner of making the record and its availability to the parties;

(d) The function of the recordmaking with respect to the perpetuation of the testimony and evidence and with respect to any appeal from the determination or order of the agency;

(e) Whether an attorney will represent the agency in the matters to be heard and whether the parties ordinarily and customarily are represented by an attorney;

(f) The title and function of the person presiding at the hearing with respect to the decision process, including, but not limited to, the manner in which the testimony and evidence taken by the person presiding at the hearing are reviewed, the effect of that person's determination, which makes the final determination on behalf of the agency, whether the person presiding at the hearing is or is not an employee, officer or other representative of the agency and whether that person has the authority to make a final independent determination;

(g) In the event a party is not represented by an attorney, whether the party may, during the course of proceedings, request a recess if at that point the party determines that representation by an attorney is necessary to the protection of the party's rights;

(h) Whether there exists an opportunity for an adjournment at the end of the hearing if the party then determines that additional evidence should be brought to the attention of the agency and the hearing reopened;

(i) Whether there exists an opportunity after the hearing and prior to the final determination or order of the agency to review and object to any proposed findings of fact, conclusions of law, summary of evidence or recommendations of the officer presiding at the hearing;

(j) A description of the appeal process from the determination or order of the agency.

(2) The information required in section (1) of this rule may be given in writing before the commencement of the hearing.

(3) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(4) Unless precluded by law, informal disposition includes, upon agreement between the parties, but is not limited to, a modified contested case proceeding, or nonrecord abbreviated hearing.

Stat. Auth.: ORS 183.335, 183.360, 183.413, 246.150, 260.232 & 260.995

Stats. Implemented: ORS 260.232 & 260.995

Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88; ELECT 27-1993, f. & cert. ef. 7-1-93

**165-001-0025**

**Orders When No Hearing Requested or Failure to Appear**

(1) When a party has been given an opportunity and fails to request a hearing within the specified time, or having requested a hearing fails to appear at the specified time and place, the agency shall, subject to section (2) of this rule, enter an order which supports the agency action. The time provided by statute to request a hearing is calculated from the delivery date indicated on the certified letter's postal confirmation. If the certified letter is refused or left unclaimed at the post office, the time shall be calculated from the date the post office indicates it has given first notice of a certified letter. The notice shall be sent by regular mail at the same time the certified notice is mailed.

(2) An order adverse to a party may be issued on default only if the agency record demonstrates a prima facie case justifying the order. The hearings officer will declare a party to be in default if the party which requested the hearing does not appear within 15 minutes of the time set for the hearing, unless the party gives notice of a reason for the inability to appear at the designated time and requests and receives a continuance.

(3) When an order is effective only if a request for a hearing is not made by a party, the record may be made when the order is issued. If the order is based only on material submitted by a party, the agency may so certify in the order, and the material will constitute the evidentiary record if any hearing is requested.

Stat. Auth.: ORS 183.090, 246.150, 260.232 & 260.995

Stats. Implemented: ORS 260.232 & 260.995

Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88; ELECT 27-1993, f. & cert. ef. 7-1-93; ELECT 15-1994, f. & cert. ef. 7-26-94

**165-001-0030**

**Subpoenas**

(1) The agency shall issue subpoenas to the parties in a contested case upon request upon a showing of general relevance and reasonable scope of the evidence sought. Subpoenas may also be issued under the signature of the attorney of record of a party.

(2) Witnesses appearing pursuant to subpoena, other than parties or officers or employees of the agency, shall be tendered fees and mileage as prescribed by law for witnesses in civil actions. The party requesting the subpoena shall be responsible for service of the subpoena and tendering the witness and mileage fees to the witness.

Stat. Auth.: ORS Ch. 260

Stats. Implemented: ORS 260.232 & 260.995

Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88

**165-001-0035**

**Conducting Contested Case Hearings**

- (1) The contested case hearing shall be conducted by and under the control of the hearing officer. The hearing officer may be the Secretary of State, a designated employee of the agency, or any other person designated by the agency.
- (2) If the hearing officer or any decision maker has a potential conflict of interest as defined in ORS 244.020(8), that officer shall comply with the requirements of ORS Chapter 244 (ORS 244.120 -244.130).
- (3) The hearing shall be conducted, subject to the discretion of the hearing officer, so as to include the following:
  - (a) The statement and evidence of the agency in support of its action;
  - (b) The statement and evidence of the person against whom the penalty may be assessed;
  - (c) Any rebuttal evidence;
  - (d) Any closing arguments.
- (4) The hearing officer, the agency, and the person against whom the penalty may be assessed shall have the right to question witnesses.
- (5) The hearing may be continued with recesses as determined by the hearing officer.
- (6) The hearing officer may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious, or immaterial matter.
- (7) Exhibits shall be marked and maintained by the agency as part of the record of the proceedings.
- (8) If the hearing officer or any decision maker receives any written or oral ex parte communication on a fact in issue during the contested case proceeding, that person shall notify all parties and otherwise comply with the requirements of OAR 165-001-0045, Ex Parte Communications.

Stat. Auth.: ORS Ch. 260

Stats. Implemented: ORS 260.232 & 260.995

Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88

**165-001-0040**

**Evidentiary Rules**

- (1) Evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible.
- (2) Irrelevant, immaterial or unduly repetitious evidence shall be excluded.
- (3) All offered evidence, not objected to, will be received by the hearing officer subject to the officer's power to exclude irrelevant, immaterial or unduly repetitious matter.
- (4) Evidence objected to may be received by the hearing officer. Ruling on its admissibility or exclusion, if not made at



the hearing, shall be made on the record at or before the time a final order is issued.

(5) Any time ten days or more before a hearing, the agency may serve upon the party, and the person against whom the penalty may be assessed may serve upon the agency, a copy of the affidavit, certificate, or other document proposed to be introduced in evidence. Unless cross-examination is requested of the affiant, certificate preparer, or other document preparer or custodian, within five days prior to hearing, the affidavit, certificate, or other document may be offered subject to the same standards and received with the same effect at oral testimony.

(6) If cross-examination is requested of the affiant, certificate preparer, or other document preparer or custodian as provided in this section, and the requestor is informed within five days prior to the hearing that the requested witness will not appear for cross-examination, the affidavit, certificate, or other document may be received in evidence, if the agency or hearing officer determines that the party requesting cross-examination would not be unduly prejudiced or injured by lack of cross-examination.

Stat. Auth.: ORS Ch. 260

Stats. Implemented: ORS 260.232 & 260.995

Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88

**165-001-0045**

**Ex Parte Communications**

(1) An ex parte communication is an oral or written communication to an agency decision maker or the hearing officer not made in the presence of all parties to the hearing, concerning a fact in issue in the proceeding, and includes communication of any new facts from staff.

(2) If an agency decision maker or hearings officer receives an ex parte communication during the pendency of the proceeding, the officer shall:

- (a) Give all parties notice of the substance of the communication, if oral, or a copy of the communication, if written; and
- (b) Provide any party who did not present the ex parte communication an opportunity to rebut the substance of the ex parte communication at the hearing, at a separate hearing for the limited purpose of receiving evidence relating to the ex parte communication, or in writing.

(3) The agency's record of contested case proceeding shall include:

- (a) The ex parte communication, if in writing;
- (b) A statement of the substance of the ex parte communication, if oral;
- (c) The agency or hearing officer's notice to the parties of the ex parte communication; and
- (d) Rebuttal evidence.

Stat. Auth.: ORS Ch. 260

Stats. Implemented: ORS 260.232 & 260.995

Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88

**165-001-0050**

**Proposed Orders in Contested Cases, Filing of Exceptions, Argument, and Adoption of Order**

- (1) If the Secretary of State or the individual designated by the Secretary of State, who is to render the final order in a contested case, has neither attended the hearing nor reviewed and considered the record, and the order is adverse to a party, a proposed order including findings of fact and conclusions of law shall be served upon the parties.
- (2) When the agency serves a proposed order on the parties, the agency shall at the same time or at a later date notify the parties when written exceptions must be filed to be considered by the agency.
- (3) The agency decision maker, after considering the written exceptions may adopt the proposed order or prepare a new order.

Stat. Auth.: ORS Ch. 260

Stats. Implemented: ORS 260.232 & 260.995

Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88

**165-001-0055**

**Final Orders**

Final orders on contested cases shall be in writing and shall include the following:

- (1) Rulings on admissibility of offered evidence when the rulings are not set forth in the record.
- (2) Findings of fact -- Those matters that are either agreed as fact or that, when disputed, are determined by the fact finder on substantial evidence to be facts over contentions to the contrary. A finding must be made on each fact necessary to reach the conclusions of law on which the order is based.
- (3) Conclusion(s) of law -- Applications of the controlling law to the facts found and the legal results arising therefrom.
- (4) Order -- The action taken by the agency as a result of the facts found and the legal conclusions arising therefrom.
- (5) A citation of the statutes under which the order may be appealed.

Stat. Auth.: ORS Ch. 260

Stats. Implemented: ORS 260.232 & 260.995

Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88

**165-001-0060**

**Default Orders**

- (1) When the agency has given a party an opportunity to request a hearing and the party fails to make a request within a specified time, or when the agency has set a specified time and place for a hearing and the party fails to appear at the specified time and place, the agency may enter a final order by default.
- (2) The agency may issue an order of default only after making a prima facie case on the record. The record may be

made at a scheduled hearing on the matter, or, if the notice of intended action states that the order will be issued or become effective upon the failure of the party to timely request a hearing, when the order is issued.

(3) If the notice of intended action contains an order that is to become effective unless the party requests a hearing, the record shall be complete at the time of the notice of intended action.

(4) The record may consist of oral (transcribed, recorded, or reported) or written evidence or a combination of oral and written evidence. When the record is made at the time the notice or order is issued, the agency file may be designated as the record. In all cases, the record must contain substantial evidence to support the findings of fact.

(5) When the agency has set a specified time and place for a hearing and the party subsequently notifies the agency that the party will not appear at such specified time and place, the agency may enter a default order, cancel the hearing, and follow the procedure described in sections (2) and (4) of this rule.

(6) When a party requests a hearing after the time specified by the agency, but before the agency has entered a default order, the agency may grant the request or make further inquiry as to the existence of the reasons specified in subsection (7)(a) of this rule for the request being tardy. If further inquiry is made, the agency may require an affidavit to be filed with the agency. The agency shall enter an order granting or denying the request as described in subsection (7)(e) of this rule.

(7)(a) When a party requests a hearing after entry of default order, the party may request to be relieved from the default order only on grounds of mistake, inadvertence, surprise, or excusable neglect;

(b) The request shall be filed with the agency, within a reasonable time. If the request is received more than 30 days after delivery or mailing of a copy of the order of default to the party or the party's attorney, it shall be presumed that such a request is not timely. This presumption may be rebutted by evidence showing that the request is reasonably timely;

(c) The request shall state why the party should be relieved from the default order;

(d) The agency may make further inquiry, including holding a hearing, as it deems appropriate;

(e) If the request is allowed by the agency, it shall enter an order granting the request and schedule a hearing in due course. If the request is denied, the agency shall enter an order setting forth its reasons for such denial.

(8) The agency shall notify a defaulting party of the entry of a default order by mailing a copy of the order as required by ORS 183.330(2).

Stat. Auth.: ORS Ch. 260

Stats. Implemented: ORS 260.232 & 260.995

Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88

**165-001-0065**

**Miscellaneous Rules -- Unacceptable Conduct**

A hearing officer may expel a person from an agency proceeding if that person engages in conduct that substantially disrupts the proceeding.

Stat. Auth.: ORS Ch. 260

Stats. Implemented: ORS 260.232 & 260.995

Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88

**165-001-0070**

**Miscellaneous Rules -- Taking Testimony by Telephone**

A hearing officer is prohibited from taking any testimony from witnesses or conducting the hearing by telephone.

Stat. Auth.: ORS Ch. 260

Stats. Implemented: ORS 260.232 & 260.995

Hist.: ELECT 15-1988(Temp), f. & cert. ef. 1-27-88; ELECT 26-1988, f. & cert. ef. 8-1-88

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**SECRETARY OF STATE, ELECTIONS DIVISION**

**DIVISION 2**

**GENERAL BUSINESS**

**165-002-0005**

**Overpayments and Automatic Refunds**

This document sets forth rules for handling overpayments and automatic refunds in the Office of the Secretary of State. All divisions in the agency shall follow the procedures outlined herein. All divisions of the Secretary of State shall be affected by this rule:

- (1) Definitions:
  - (a) "Automatic Refund" is the minimum refund that is paid without a written request;
  - (b) "Minimum Refund" is the minimum over-payment that is automatically refunded;
  - (c) "Overpayment" is an amount paid in excess of the amount legally due and payable to the agency for services and goods. Also it is moneys, that are received, to which the agency has no legal interest. An overpayment may be refunded automatically or upon written request;
  - (d) "Refund" is the payment of an overpayment or moneys to which the agency has no legal interest.
- (2)(a) All overpayments shall be identified as to:
  - (A) The name and address of the person who made the payment;
  - (B) The amount of the overpayment; and
  - (C) The date of the overpayment.
- (b) Each division shall maintain a list of these overpayments for at least three years in order to comply with ORS 293.445.
- (3) All overpayments shall be deposited into a miscellaneous receipt account with the State Treasurer for just refunds. Moneys in this account shall be used to make only refund payments automatically or upon written request in accordance

with this rule. Because these moneys are continuously appropriated to the Secretary of State for refunds, each division's overpayments shall be distinguishable in this miscellaneous receipt account.

- (4) Five dollars is the minimum overpayment below which no refund will be made without a written request from the person who paid the money or the legal representative thereof.
- (5) The written refund request for an overpayment shall be made within three years from the date the money was paid to the agency.
- (6) Each division should reject incomplete or erroneous payments to which the agency has no legal interest. However, if such payments are received in error, these moneys should be refunded immediately.

Stat. Auth.: ORS Ch. 293  
Stats. Implemented: ORS 293.445  
Hist.: SD 17-1984, f. & ef. 9-14-84

**165-002-0010**

**Schedule and Fees for Providing Copies of Public Records**

- (1) ORS 192.440 provides that any public agency may establish fees reasonably calculated to reimburse it for actual costs in making records available to the public, government agencies or commercial firms. These fees shall include copy and facsimile machine costs, computer disk costs, paper costs and staff time to research and produce the copies.
- (2) Any person may request photocopies, facsimile (fax) copies, certifications and computer disks of public records which are on file in the Office of the Secretary of State, Elections Division in person, in writing or by telephone.
- (3) Charges for photocopy orders shall be as follows:
  - (a) \$0.25 per page; or
  - (b) \$0.03 per page, plus the actual cost of providing a temporary employee to process the order, for orders which require more than four hours of staff time;
  - (c) If the completed photocopy order is mailed, the minimum charge will be \$1 prepaid. If the order is to be billed, the minimum charge will be \$5.
- (4) Completion of copy orders is contingent upon the number of pending requests and staff availability. A request log will be maintained at peak times, and orders will be processed in the order in which they are received.
- (5) Facsimile (fax) copy orders shall be processed as follows:
  - (a) The cost of records transmitted by facsimile (fax) will be \$5 for the first page and \$1 for each additional page;
  - (b) The only exception to these fees shall be faxes required for election purposes;
  - (c) Facsimile (fax) orders are limited to in-state customers unless prepayment is received.
- (6) Certified copies of public records shall be provided at a cost of \$5 for each certification plus \$0.25 for each page copied. Certified copies means photocopies which are certified to be true and accurate copies of the original documents.
- (7) Copies of Oregon Administrative Rules promulgated by the Secretary of State, Elections Division will be provided

as follows:

- (a) \$0.25 per page for the text of individual rules;
- (b) \$15 for a complete set of all current Elections Division rules (OAR Chapter 165).
- (8) Copies of public records may also be provided on a 3.5-inch computer disk if the document(s) are stored in the computer system. Disks will be provided at a cost of \$5 per disk and may contain as much information on each disk as it will hold.
- (9) Labor charges for research projects shall be as follows:
  - (a) No charge for the first 30 minutes of staff time;
  - (b) Beginning with the 31st minute, the charge per total request shall be \$15 per hour or \$3.75 per quarter-hour. No proration will be done for less than a quarter-hour;
  - (c) "Research", for purposes of this rule, is defined as the compilation of information:
    - (A) Which is not readily and immediately available from a single source or a group of related sources;
    - (B) Which requires a search to locate the requested information; or
    - (C) Where the request is not specific and a staff determination must be made as to the nature of the information which would fulfill the request.
- (10) Billing will be done on the following basis:
  - (a) Billing will not be provided on orders which are received in person, orders placed by offices located within the State Capitol Building or orders which are mailed to destinations outside Oregon;
  - (b) Payment must be made not later than 30 days after the billing date. If payment is not received and a second notice is required, an additional \$5 may be charged;
  - (c) Billing will not be provided to any customer who has a past due balance from a previous order. Additional orders will be processed only upon receipt of the balance owed and prepayment of the cost of the new orders.
- (11) For orders which have an estimated total cost exceeding \$50, a deposit of 1/2 of the estimated total cost of the order will be required prior to processing.
- (12) The following informational copies will be provided free of charge: Lists of federal and statewide elected officials, the legislative assembly, judges, and district attorneys; voter registration statistics; press releases; and 8.5" x 11" maps.

Stat. Auth.: ORS 192.440 & 246.150

Stats. Implemented: ORS 192.440

Hist.: ELECT 21-1989, f. & cert. ef. 10-31-89; ELECT 10-1994, f. & cert. ef. 5-31-94

**165-002-0025**

**Secretary of State as Filing Officer**

- (1) ORS Chapters 246 through 260 name the Secretary of State as the filing officer for certain candidate filings, initiative, referendum and recall filings, campaign finance reports and other elections material.

(2) For purposes of ORS Chapters 246 through 260, when the Secretary of State is designated as the filing officer, "Secretary of State" is defined as the Elections Division, Room 141, State Capitol, Salem, OR 97310; telephone number (503) 986-1518; facsimile (fax) number (503) 373-7414.

(3) For any document for which the Secretary of State is the filing officer, such document will not be considered filed until it is physically received at the location described in section (2) of this rule.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 246.021

Hist.: ELECT 11-1994, f. & cert. ef. 6-3-94

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**SECRETARY OF STATE, ELECTIONS DIVISION**

**DIVISION 4**

**CITY INCORPORATION**

**165-004-0005**

**Forms to Petition for Incorporation of a City**

(1) The Secretary of State hereby adopts by reference and designates SEL Form Numbers 701, 702, and 703 to comply with the requirements of ORS 221.031 to designate the petition filing forms for a City Incorporation. The filing forms shall contain the following information:

(a) Form SEL 701, the cover page, shall contain:

(A) Instructions for circulators and signers;

(B) A statement that the chief petitioners are legal voters residing within the boundaries of the area proposed for incorporation;

(C) A statement of the estimated tax base sufficient to support an adequate level of municipal services;

(D) A statement of the estimate of a tax rate in dollars per thousand of assessed value necessary to raise an amount of revenue equal to the proposed tax base;

(E) Place for the signature, residence address, mailing address (if different), city, state, and zip code up to three chief petitioners.

(b) SEL 702, the signature sheet when circulator is not being paid, shall contain:

(A) The title "**Petition for Incorporation of the City of \_\_\_\_\_**" with the name of the proposed city filled in;

(B) The sub-title "**Signature Sheet**";

(C) A statement that the undersigned voters of the area proposed to be incorporated petition the county court to form the city named on the petition and described by the map attached to the petition;

- (D) The signature, printed name, date of signing, residence address, city or post office, zip code and precinct number for each person who signs the petition;
- (E) Statement of circulator that each person who signed the petition did so in his presence and that circulator believes that each individual is a qualified voter in the area proposed to be incorporated.
- (c) SEL 703, the signature sheet when circulator is being paid, shall contain:
  - (A) A statement that states "**The person obtaining signatures on this petition is being Paid**";
  - (B) The title "**Petition for Incorporation of the City of \_\_\_\_\_**" with the name of the proposed city filled in;
  - (C) The sub-title "**Signature Sheet**";
  - (D) A statement that the undersigned voters of the area proposed to be incorporated petition the county court to form the city named on the petition and described by the map attached to the petition;
  - (E) The signature, printed name, date of signing, residence address, city or post office, zip code and precinct number for each person who signs the petition;
  - (F) Statement of circulator that each person who signed the petition did so in his presence and that circulator believes that each individual is a qualified voter in the area proposed to be incorporated.
- (2) A correct filing must also have a map not exceeding 14" x 17" in size, showing the exterior boundaries of the proposed city attached to the petition.

Stat. Auth.: ORS 221.031, 221.040 & 221.050

Stats. Implemented: ORS 221.031

Hist.: SD 15-1981, f. & ef. 12-1-81; ELECT 15-1993(Temp), f. & cert. ef. 4-23-93; ELECT 21-1993, f. & cert. ef. 6-21-93

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**SECRETARY OF STATE, ELECTIONS DIVISION**

**DIVISION 5**

**VOTER REGISTRATION**

**Registration of Naturalized U.S. Citizen**

**165-005-0035**

**Subject**

Method for registering to vote an otherwise qualified person who will become a naturalized United States citizen after the registration cutoff but prior to the next election.

Stat. Auth.: ORS 246.150, 247.012 & 247.208

Stats. Implemented: ORS 247.015

Hist.: ELECT 23-1990, f. & cert. ef. 7-13-90; ELECT 25-1994, f. & cert. ef. 10-27-94

**165-005-0040**

**Definitions**

- (1) "Qualified Person" -- A resident of the State of Oregon who is 18 years of age or older; has resided in this state for 20 days immediately preceding the election at which the person will vote; is registered more than 20 calendar days prior to the election.
- (2) "Naturalized United States Citizen" -- A citizen of another country who has met the Immigration and Naturalization Services requirements to obtain U.S. citizenship and, through a legal procedure, becomes a citizen of the United States.
- (3) "Voter Registration Card" -- A form designed by the Secretary of State's Office for the specific purpose of registering citizens of Oregon to vote.

Stat. Auth.: ORS 247.015(4), 247.171(3) & 249.012

Stats. Implemented: ORS 247.015

Hist.: ELECT 23-1990, f. & cert. ef. 7-13-90

**165-005-0045**

**General**

(1) ORS 247.015(4) provides an otherwise qualified person who will become a naturalized United States citizen after the registration cutoff may register to vote prior to the voter registration deadline.

(2) Furthermore, the secretary of state shall design a special registration card for qualified persons who will become United States citizens after the registration cutoff (ORS 247.171(3)).

Stat. Auth.: ORS 247.015(4), 247.171(3) & 249.012

Stats. Implemented: ORS 247.015 & 247.171

Hist.: ELECT 23-1990, f. & cert. ef. 7-13-90

**165-005-0050**

**Procedure**

(1) The person who will become a United States citizen shall request registration personally in the office of any County Clerk. The person shall explain that he/she will become a naturalized United States citizen after the voter registration cutoff but prior to the next election.

(2) The office of the County Clerk shall request that the person complete a naturalized U.S. citizen voter registration card.

(3) The office of the County Clerk shall explain to the person that he/she must provide evidence of citizenship to the office of the County Clerk prior to the election or the person's registration shall be canceled.

(4) If the person fails to provide evidence of citizenship, the office of the County Clerk shall cancel the person's registration and the person shall reregister as required in the manner described in ORS 247.012 or 247.015(4).

Stat. Auth.: ORS 246.150, 247.012 & 247.208

Stats. Implemented: ORS 247.015

Hist.: ELECT 23-1990, f. & cert. ef. 7-13-90; ELECT 25-1994, f. & cert. ef. 10-27-94

**Agency Registration**

**165-005-0055**

**Purpose and Definitions**

- (1) The purpose of this rule is to establish procedures for the collection of voter registration cards by County Clerks from voter registration agencies designated by the Secretary of State and to establish procedures for accounting for electors who register to vote under the provisions of ORS 247.017 or ORS 247.208.
- (2) "Voter Registration Agency" means one of the following:
- (a) Adult and Family Services Division;
  - (b) Office of Alcohol and Drug Abuse Programs;
  - (c) Commission for the Blind;
  - (d) Health Division;
  - (e) Mental Health and Developmental Disability Services Division;
  - (f) Senior and Disabled Services Division;
  - (g) Vocational Rehabilitation Division;
  - (h) Oregon Disabilities Commission;
  - (i) Office of Medical Assistance Programs;
  - (j) Oregon Department of Transportation;
  - (k) Armed Forces recruitment offices operated by the U.S. Department of Defense; and
  - (l) Oregon State System of Higher Education.
- (3) "Agency Site" means any voter registration location named by a voter registration agency designated in section (2) of this rule.
- (4) "County Clerk" means the official responsible for voter registration in any county.
- (5) Some voter registration agencies are not required under the National Voter Registration Act to be designated as voter registration agencies. As volunteer agencies, the following agency is exempt from the requirements of ORS 247.208(2) and (4): Oregon State System of Higher Education.

Stat. Auth.: ORS 246.150, 247.012 & 247.208

Stats. Implemented: ORS 247.208

Hist.: ELECT 10-1991(Temp), f. & cert. ef. 9-27-91; ELECT 18-1992, f. & cert. ef. 7-1-92; ELECT 25-1994, f. & cert. ef. 10-27-94

**165-005-0060**

**Collection of Registration Cards**

- (1) Personnel at all agency sites shall forward completed voter registration cards to the County Clerk of the county in which the agency site is located. If the Secretary of State provides envelopes for forwarding the cards, those envelopes shall be used. Agency personnel shall forward cards via the U.S. Postal Service, unless the County Clerk selects another delivery method that may be more economical or efficient.
- (2) The County Clerk shall notify agency sites of impending registration-related deadlines and shall arrange to receive

the cards in a timely manner.

(3) Personnel at agency sites shall forward completed voter registration cards within five days of receipt, as required by ORS 247.012(2)(a).

Stat. Auth.: ORS 246.150, 247.012 & 247.208

Stats. Implemented: ORS 247.012 & 247.208

Hist.: ELECT 10-1991(Temp), f. & cert. ef. 9-27-91; ELECT 18-1992, f. & cert. ef. 7-1-92; ELECT 25-1994, f. & cert. ef. 10-27-94

**165-005-0065**

**Compiling and Reporting Registrations**

(1) The Secretary of State shall print and provide to Voter Registration Agencies a form to use to report the number of voter registration cards sent to the County Clerk.

(2) At least monthly, on the form provided by the Secretary of State, each agency site shall report to the Secretary of State the number of voter registration cards sent to the County since the last report.

(3) County Clerks shall record the following voter registration information for the purpose of reporting to the Secretary of State by January 1 of every odd-numbered year:

(a) The number of voters registered "active" and the number of voters registered "inactive" at the close of the previous general election (included in the abstract);

(b) The number of registrations cancelled between the two most recent federal general elections;

(c) The number of confirmation notices mailed out between the two most recent federal general elections and the number of responses to these notices received during that same period;

(d) The number of valid registrations for people not previously registered in the county accepted during one week to be designated by the Secretary of State each quarter;

(e) The number of registration applications received by mail during one week to be designated by the Secretary of State each quarter;

(f) The number of registration applications received from voter registration drives; and

(g) The number of registration applications that duplicate an existing registration that are received in each of the following categories during one week to be designated by the Secretary of State each quarter:

(A) By mail;

(B) From voter registration drives;

(C) From the Department of Transportation;

(D) In envelopes on which is printed the number "3";

(E) In envelopes on which is printed the number "4";

(F) From Armed Forces Recruitment offices; and

(G) From all other designated voter registration agencies.

(4) The first report to the Secretary of State, due January 1, 1997, shall include the period beginning January 1, 1995 and ending November 5, 1996.

Stat. Auth.: ORS 246.150, 247.012 & 247.208

Stats. Implemented: ORS 247.208

Hist.: ELECT 10-1991(Temp), f. & cert. ef. 9-27-91; ELECT 18-1992, f. & cert. ef. 7-1-92; ELECT 25-1994, f. & cert. ef. 10-27-94

## **165-005-0070**

### **Agency Registration Procedures**

(1) Personnel at agency sites shall stamp or write on the reverse side of the voter registration card, below the postage area, the date the card is received by voter registration agency personnel. Voter registration agencies may petition the Secretary of State to obtain permission to place the date in another location on the voter registration card.

(2) Voter registration agencies shall provide to the Secretary of State the following information in writing prior to January 1, 1995:

- (a) The identity of one statewide contact person for each voter registration agency;
- (b) The location of each agency site that will offer voter registration; and
- (c) The nature of voter registration procedures within the voter registration agency.

(3) Voter registration agencies shall provide to the County Clerk in writing prior to December 1, 1995 the following information about each agency site located within the County Clerk's jurisdiction:

- (a) The identity of one contact person for each agency site; and
- (b) The location of each agency site in the county that will offer voter registration.

(4) After the initial report to the officials specified in sections (2) and (3) of this rule, voter registration agencies shall provide in writing notice of any changes to the information required in subsections (2)(a), (b) or (c) or (3)(a) or (b) of this rule to the appropriate official within 30 days of the change.

(5) Voter registration agency personnel shall not influence or attempt to influence a person to choose or not choose a particular political party or preference, or to register or vote in any particular manner. Items personnel shall not wear or display in the presence of clients while offering the opportunity to register to vote include materials that:

- (a) Identify past, present, or future holders or seekers of partisan elective office;
- (b) Contain logos or other graphics that may be identified with a political party or other party preference; and/or
- (c) Would reasonably be understood to be associated with a political party or other political party preference.

Stat. Auth.: ORS 246.150, 247.012 & 247.208

Stats. Implemented: ORS 247.208

Hist.: ELECT 4-1992(Temp), f. & cert. ef. 2-26-92; ELECT 18-1992, f. & cert. ef. 7-1-92; ELECT 25-1994, f. & cert. ef. 10-27-94

## 165-005-0080

### Request for Delivery of Registration Cards

- (1) The purpose of this rule is to set out the procedures for handling requests for delivery of voter registration cards.
- (2) This rule shall include the following definitions:
  - (a) "Person" is an individual or a corporation, association, firm, partnership, joint stock company, club, organization or other combination of individuals having collective capacity. It does not include any such organization designated by a County Clerk as a permanent registration location or by the Secretary of State in OAR 165-005-0055(1) as a voter registration agency;
  - (b) "Registration Cards" are voter registration cards as designed, prepared, and distributed by the Secretary of State per the requirements of ORS 247.121 and 247.171;
  - (c) "Aggregate" is the total number of registration cards distributed to any person during the time defined in ORS 247.176, §1;
  - (d) "Time" is the period extending from the 250th day before the primary election to the date of the primary election *and* the period extending from the date of the primary election to the 250th day before the next primary election.
- (3) All requests for 100 or more voter registration cards shall be accompanied by a completed SEL Form 505 and will be filled as follows:
  - (a) The County Clerk shall fill requests for less than 500 voter registration cards;
  - (b) The Secretary of State shall fill requests for 500 or more voter registration cards.
- (4) The Secretary of State shall maintain records to determine when an aggregate of 5,000 registration cards have been delivered to any person during any one time period as defined in ORS 247.176, §1.
- (5) Requests by any person for registration cards in excess of the 5,000 aggregate during any one time period will be made to the Secretary of State. At the discretion of the Secretary of State, requests for additional cards may be satisfied by:
  - (a) Providing additional cards to the person making the request at a fee based on actual costs of printing and processing by the Secretary of State; or
  - (b) Authorizing the requesting person to print the cards at the person's own expense, according to Secretary of State specifications.
- (6) Nothing in this rule shall be deemed to limit the distribution of voter registration cards to permanent registration locations as designated by the County Clerk or to voter registration agencies as designated by the Secretary of State.
- (7) The public distribution of registration cards by a person approved by the Secretary of State under ORS 247.171 to print, copy or otherwise prepare and distribute registration cards, even though the distributor incurs costs in the distribution, does not constitute undue influence to affect registration, voting or candidacy.
- (8) These procedures shall be construed liberally in order not to impede voter registration in this state.

[ED. NOTE: The form(s) referred to or incorporated by reference in this rule are available from the Elections Division.]

Stat. Auth.: ORS 246.150, 247.012 & 247.208



Stats. Implemented: ORS 247.176

Hist.: ELECT 1-1990, f. & cert. ef. 1-16-90; ELECT 5-1992, f. & cert. ef. 2-26-92; Renumbered from 165-02-015; ELECT 25-1994, f. & cert. ef. 10-27-94

**165-005-0090**

**Registration Card Distribution**

Distribution of voter registration cards in amounts greater than 5,000 cards. The Secretary of State will honor requests for delivery of more than 5,000 registration cards in the following circumstances:

- (1) When the request is made in writing and the requester agrees to pay the printing costs of the cards requested; or
- (2) When the request is made in writing and the requester provides the following information and assurances:
  - (a) The requester provides a plan for distribution of the cards, including the names of persons or organizations involved in the registration drive, distribution locations, publicity related to the registration drive, coordination with other registration drives, if applicable, and any other pertinent details of the effort;
  - (b) The requester provides written assurances that any unused registration cards after the completion of the registration effort will be returned to the Secretary of State.

Stat. Auth.: ORS 247.176(2)

Stats. Implemented: ORS 247.176

Hist.: ELECT 20-1992(Temp), f. & cert. ef. 8-14-92; ELECT 1-1993, f. & cert. ef. 1-13-93

**165-005-0120**

**Required Registration Information**

- (1) Due to implementation of the National Voter Registration Act (NVRA), it is necessary to modify Oregon statutes which relate to the qualification and registration of voters. This rule is adopted to modify sections and subsections of ORS Chapter 247 for the purpose of complying with NVRA requirements. All sections or subsections of ORS Chapter 247 not specifically modified by this rule are in effect. The following sections and subsections of ORS Chapter 247 are modified for purposes of voter registration.
- (2) ORS 247.002(3): Modified so that "Registration card" means a state voter registration card approved by the Secretary of State under ORS 247.171 or the voter registration portion of an application described in ORS 247.017.
- (3) Add ORS 247.002(4): "Registration form" means a form which includes:
  - (a) A tear-off registration card containing the information required to register a person;
  - (b) A detachable section containing other information which may be requested to assist the county clerk in properly registering a person;
  - (c) A detachable section containing instruction for completing the form.
- (4) ORS 247.012(4): Modified so that if a registration card is legible, accurate and contains the registrant's name, residence address and signature, the county clerk shall register the person. If the registration card is missing the person's

date of birth or political party, the county clerk shall contact the person to request the missing information.

(5) ORS 247.012(5): Does not apply.

(6) ORS 247.012(6):

(a) Applies only for new registrations; does not apply if the voter registration card is updating a registration;

(b) If a registration card meets the requirements of ORS 247.012(4) but is missing the voter's political party on the 21st day before any election in which the voter is eligible to vote, the voter shall be considered not affiliated with any political party for the immediately ensuing election and for every subsequent election until the voter updates the voter's registration to indicate a political party affiliation.

(7) ORS 247.121(1): Modified so that:

(a) Each person who completes a voter registration card must supply the following information:

(A) Full name;

(B) Mailing address, residence address or any other necessary information definitely locating the residence of the person;

(C) Signature on a statement that the person is a citizen of the United States, a resident of Oregon and at least 18 years of age.

(b) Each person who completes a voter registration card may be asked to provide the following information:

(A) Political party, if any;

(B) Date of birth.

(c) Each person who completes a voter registration form may be asked to provide the following information:

(A) Telephone number;

(B) If previously registered in Oregon, the name on the previous registration and the county of previous registration, if known.

(8) ORS 247.171: The warning which will appear on voter registration cards printed on or after October 1, 1994 shall state: "WARNING: If you sign this card and know it to be false, you can be convicted and fined up to \$100,000 and/or jailed for up to 5 years."

(9) Ors 247.290(3)(c): Does not apply.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 247.005, 247.012, 247.121 & 247.171

Hist.: ELECT 19-1993, f. & cert. ef. 5-19-93; ELECT 24-1994, f. & cert. ef. 10-6-94

**165-005-0130**

**Residence Address Disclosure Exemption**

(1) The purpose of this rule is to define when the county clerk may exempt the residence address or personal telephone

number of an elector from disclosure as a public record.

(2) The terms used in this rule shall have the same meaning as defined in ORS Chapters 246 through 260, commonly referred to as "Oregon Election Laws".

(3) An elector may request that a county clerk not disclose the residence address or personal telephone number of the elector. If the elector demonstrates to the satisfaction of the county clerk that the personal safety of the elector or the personal safety of a family member residing with the elector is in danger if the residence address or personal telephone number remains available for public inspection, the county clerk shall not disclose the residence address or personal telephone number, except in compliance with a court order, to a law enforcement agency at the request of the law enforcement agency, or with the consent of the elector.

(4) An exemption from disclosure granted under this rule shall include the residence address or personal phone number on the elector's voter registration card, registration lists produced in accordance with ORS 247.940 and 247.950, lists of absent electors produced in accordance with ORS 253.040, poll books, and any other material produced or maintained by the county clerk which is available for public inspection that may reveal the requestor's residence address or personal phone number. The elector's mailing address may be used in place of the exempt residence address.

(5) A request under section (3) of this rule shall be submitted to the county clerk. The request shall be in writing, signed by the elector, and shall include:

(a) A mailing address for the elector; and

(b) Evidence sufficient to establish that disclosure of the elector's residence address or personal telephone number would constitute a danger to the personal safety of the elector or of a family member residing with the elector. Such evidence may include copies of police reports, court orders, medical records or affidavits showing that the elector or a family member residing with the elector has:

(A) Been a victim of domestic violence;

(B) Obtained an order issued under ORS 133.055;

(C) Contacted a law enforcement officer concerning domestic violence, other physical abuse, or threatening or harassing telephone calls directed at the elector or a family member residing with the elector;

(D) Obtained a temporary restraining order or other no-contact order to protect the elector or a family member residing with the elector from future physical abuse;

(E) Filed other criminal or civil legal proceedings regarding physical protection for the elector or a family member residing with the elector;

(F) Within one year of submitting the request under section (3) of this rule, obtained an officer's stalking protective order or a court's stalking protective order pursuant to Chapter 626, Oregon Laws 1993 (SB 833), or has been a victim of a person convicted of the crime of stalking, of violating an officer's stalking protective order, or of violating a court's stalking protective order;

(G) Received protection under a conditional release agreement issued under ORS 135.250 - 135.260;

(H) Had his or her identity or place of residence protected by a protective order issued pursuant to ORS 135.873 or 135.970;

(I) Testified as a witness at a criminal trial, grand jury hearing or preliminary hearing, and has obtained an affidavit from a district attorney or deputy district attorney stating that such testimony places the personal safety of the witness in danger;

(J) Been a party, juror, judge, attorney or involved in some other capacity in a trial, grand jury proceeding or other court proceeding, and has obtained a court order stating that such involvement places the personal safety of the elector or of a family member residing with the elector in danger; or

(K) Such other documentary evidence that establishes to the satisfaction of the county clerk that disclosure of the elector's residence address or personal telephone number would constitute a danger to the personal safety of the elector or of a family member residing with the elector.

(6) The county clerk receiving a request under this rule promptly shall review the request and notify the elector, in writing, whether the evidence submitted is sufficient to demonstrate to the satisfaction of the county clerk that the personal safety of the elector or of a family member residing with the elector would be in danger if the residence address or personal telephone number remains available for public inspection. The county clerk may request that the elector submit additional information concerning the request.

(7) An elector who has requested that a county clerk not disclose his or her residence address or personal telephone number may revoke the request by notifying, in writing, the county clerk to whom the request was made that disclosure no longer constitutes a danger to personal safety. The notification shall be signed by the person who submitted the original request for nondisclosure of the residence address or personal telephone number.

Stat. Auth.: ORS 246.150, 247.965, 247.969 & 247.971

Stats. Implemented: ORS 247.965 & 247.969

Hist.: ELECT 3-1994, f. & cert. ef. 2-4-94

**165-005-0140**

**Other Indications of Residency**

- (1) The purpose of this rule is to provide additional guidelines for determining residency for voter registration purposes.
- (2) The terms used in this rule shall have the same meaning as defined in ORS Chapters 246 through 260, commonly referred to as "Oregon Election Laws".
- (3) The election official, in determining the residence of a person pursuant to ORS 247.035, may consider, but is not limited to, the following factors:
  - (a) The address at which the person receives personal mail;
  - (b) The address at which the person is licensed to drive;
  - (c) The address at which the person registers motor vehicles for personal use;
  - (d) The address at which the person is billed for utility services;
  - (e) The address from which the person files any federal or state tax returns.
- (4) If a person's property is split by a jurisdictional line, the person shall be registered where the residence is located. If the residence is split by a jurisdictional line, the person shall register where the residence is located according to county assessment and taxation records.

Stat. Auth.: ORS 246.150 & 247.035

Stats. Implemented: ORS 247.035

Hist.: ELECT 8-1994, f. & cert. ef. 5-2-94

**165-005-0150**

**Use of Signature Stamp by Disabled Elector**

- (1) For purposes of this rule, signature stamp or other indicator means a device capable of printing a representation of a persons signature on a document.
- (2) Any voter who is unable, because of a disability, to sign the persons name by hand may use a signature stamp or other indicator on the persons voter registration form and any other election document requiring the voters signature as provided by this rule.
- (3) Before a voter may use a signature stamp or other indicator on an election document, the voter shall attest that the voter needs to use a signature stamp or other indicator because of a disability.
- (4) Form SEL 540 shall be the form used for the attestation required by this rule. The form shall be filed with the county election official of the county in which the voter is registered to vote.

Stat. Auth.: ORS 246.120, 246.150 & HB 3135, 1997 Legislature

Stats. Implemented: HB 3135, 1997 Legislature

Hist.: ELECT 10-1997, f. & cert. ef. 10-27-97

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**Oregon Administrative Rules  
1998 Compilation**

**SECRETARY OF STATE, ELECTIONS DIVISION**

**DIVISION 7**

**CONDUCT OF ELECTIONS**

**165-007-0010**

**Purpose of Statutory Authority**

Elections by mail are to be conducted pursuant to ORS 254.470. This rule is adopted to modify sections and subsections of ORS Chapters 254 and 255 for the purpose of establishing procedures for the conduct of elections by mail. All sections or subsections of ORS Chapter 254 or 255 not specifically modified by this rule are in effect.

Stat. Auth.: ORS 254.470

Stats. Implemented: ORS 254.470

Hist.: ELECT 5-1989, f. & cert. ef. 8-16-89; ELECT 6-1992, f. & cert. ef. 2-26-92

**165-007-0020**

**Statutory Modifications**

The following are modified for all elections conducted by mail:

- (1) ORS 254.145(3) -- Does not apply.
- (2) ORS 254.145(5) -- The stub portion of the ballot may be omitted and stub numbers need not be assigned. For single punchcard counties a write-in stub must be attached to the punchcard for any election in which a candidate is on the ballot.
- (3) ORS 254.195(2) -- Sample ballots need not be printed.
- (4) ORS 254.205 -- The election officer need not publish a facsimile ballot unless the election is not conducted by mail throughout the entire electoral district.
- (5) ORS 254.215 -- Does not apply.

- (6) ORS 254.226 -- The poll book shall consist of a master list of electors to whom ballots are mailed and all return identification envelopes, excluding "rejected return envelopes" which will be sealed with the ballots. The list shall include the name, residence address, precinct identification and party affiliation of each elector.
- (7) ORS 254.235(4) -- Does not apply.
- (8) ORS 254.245 -- Does not apply.
- (9) ORS 254-265 -- Does not apply.
- (10) ORS 254.275 -- The election officer shall administer the election board clerk's oath of office to any person hired temporarily to process ballots.
- (11) ORS 254.295 -- The election officer may replace any temporary employee hired to work if the employee is not present when required. The replacement need not be of the same political affiliation as the absent employee, unless all temporary employees would have the same political affiliation.
- (12) ORS 254.305 -- The election officer may allow a reasonable number of persons to be within 100 feet of the ballot box location(s). The election officer may appoint a peace officer to preserve order at these locations. During the processing of the return identification envelopes and ballots, the election officer may appoint one or more persons per work station to act as a challenger or watcher. A person so appointed shall not interfere with the procedures.
- (13) ORS 254.315 -- Does not apply.
- (14) ORS 254.321 -- At any election by mail in which a question of establishing or changing the exterior boundaries of a county or city is submitted to a vote, the county clerk shall provide with each ballot a map indicating the proposed boundaries.
- (15) ORS 254.325(2), (3), (4), (5) and (6) Do not apply.
- (16) ORS 254.335 -- Does not apply.
- (17) ORS 254.345 -- Does not apply.
- (18) ORS 254.355 -- The election officer shall prepare a list showing the number of ballots initially mailed and the number of replacement ballots issued.
- (19) ORS 254.385 -- An elector need not sign a pollbook before receiving a ballot. The election officer shall provide a return identification envelope to the elector with the voter's statement shown in **Exhibit 2**. The elector is required to make the voter's statement by signing in the designated space on the return identification envelope. The elections officer shall provide a secrecy envelope with applicable instructions as shown in **Exhibit 3, 4 and 5**.
- (20) ORS 254.395 -- The stub portion of the ballot may be omitted and stub numbers need not be assigned. For single punchcard counties, a write-in stub must be attached to the punchcard for any election in which a candidate is on the ballot.
- (21) ORS 254.405(1) and (3) -- Do not apply.
- (22) ORS 254.415 and 254.425 -- An elector or an election official may challenge the entry of any name on the master mailing list. The individual making the challenge shall fill out and sign the challenge form.
- (23) ORS 254.435 -- Does not apply.
- (24) ORS 254.455 -- A replacement ballot shall be issued to an elector who did not receive the original ballot or if the issued ballot is lost or damaged. The election officer shall issue the replacement ballot as specified in OAR 165-07-080.

- (25) ORS 254.475 (1) through (6) -- Do not apply.
- (26) ORS 254.485(1) and (2) -- Ballots may be tallied by a vote tally system or by a counting board. Ballots will be tallied at a location designated by the election officer. Ballots shall be tallied by precinct. The tally of ballots can not begin before election day but can commence prior to the closing of the polls.
- (27) ORS 254.525(1) -- Does not apply.
- (28) ORS 255.095(2) -- The election officer need not publish a facsimile ballot for an election conducted by mail unless the election is not conducted by mail throughout the entire electoral district (notice by mail is given in accordance with the provisions of ORS 255.215).
- (29) ORS 255.288 -- At any election by mail in which the question of establishing or changing the exterior boundaries of a district or the question of establishing or changing boundaries of electoral zones or subdistricts within a district is submitted to a vote, the county clerk shall provide with each ballot a map indicating the proposed boundaries.

[ED. NOTE: The Exhibit(s) referenced in this rule are not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 254.470

Stats. Implemented: ORS 254.470

Hist.: ELECT 5-1989, f. & cert. ef. 8-16-89; ELECT 6-1992, f. & cert. ef. 2-26-92

**165-007-0030**

**Voter Registration After the 21st Day**

- (1) If a voter registration card is received after the 21st day before the election:
- (a) The election officer shall examine the master list of electors and determine whether the person submitting the registration or reregistration was mailed a ballot packet. The election officer shall indicate on the master list that the person reregistered after the 21st day before the election. If that person returns a vote-by-mail ballot under the previous registration, the election officer shall reject that ballot;
- (b) When a person has been issued a certificate of registration, and is issued a ballot packet under ORS 254.470(4), the election officer shall indicate on the master list that the person voted a ballot by means of a certificate of registration. If the elector returns a vote-by-mail ballot under a previous registration, the election officer shall reject the ballot.
- (2) Pursuant to ORS 247.560, the election officer shall inquire into the validity of any registration for which a ballot packet is returned by the postal service as "undeliverable".

Stat. Auth.: ORS Ch. 254

Stats. Implemented: ORS 254.470

Hist.: ELECT 5-1989, f. & cert. ef. 8-16-89

**165-007-0040**

**Absentee Voting**

- (1) The election officer shall mail as soon as possible before an election, absentee ballots to every long-term absent



voter of the electoral district as defined in ORS 253.510.

(2) The election officer shall issue ballots to absentee voters of the electoral district pursuant to the provisions of ORS 253.015 - 253.135.

Stat. Auth.: ORS Ch. 254

Stats. Implemented: ORS 253.065

Hist.: ELECT 5-1989, f. & cert. ef. 8-16-89

**165-007-0050**

**Preparing Ballots for Mailing**

- (1) The election officer shall insure on site security is provided while preparing ballots.
- (2) The election officer shall insure only one format or precinct is prepared at any one time per work station.
- (3) The election officer shall insure sufficient information is provided for addressing the ballot envelopes for voter and election identification.
- (4) The election officer shall insure security is provided when the ballots are transferred to the Post Office.

Stat. Auth.: ORS Ch. 254

Stats. Implemented: ORS 253.045 & 254.470

Hist.: ELECT 5-1989, f. & cert. ef. 8-16-89

**165-007-0060**

**Reception and Signature Verification**

- (1) The name of each voter, whose return identification envelope is received prior to 8 p.m. on election day, shall be recorded on the master list. Data entry procedures may be used to record this activity. If more than one envelope has been returned by an elector and none are identified as a replacement ballot the election officer shall compare the addresses on the envelopes with the address on the voter's registration card:
  - (a) If the addresses on the envelopes are different: Process the return identification envelope containing the correct address. Reject all other return identification envelopes;
  - (b) If the addresses on the envelopes are the same: Process the return identification envelope with the latest post mark. Reject all other return identification envelopes.
- (2) The voter's signature on the return identification envelope shall be compared to the signature as it appears on the voter's registration record:
  - (a) If they match: File the envelope for precinct processing;
  - (b) If the signature is questionable: The return identification envelope shall go to a special verification board to make the determination as to whether the envelope should be accepted or rejected;

(c) If the signature does not match: Reject the envelope.

(3) If the return identification envelope is unsigned, the election officer shall make at least one attempt to notify the voter that the ballot cannot be processed unless the envelope is signed prior to 8 p.m. election day. The attempt may be by telephone or in writing. If the phone attempt is unsuccessful then it must be done in writing. The written attempt shall be in the form of a notice in substantially the same form as **Exhibit 3**. The election officer may again send the voter an official ballot with a return identification envelope and a secrecy envelope with the notice.

(4)(a) If a ballot return envelope is rejected for either of the following reasons:

(A) The signature on the return envelope does not match the signature on the voter registration card; or

(B) Someone else signed their name to the ballot return envelope.

(b) The county election official will time and date stamp the envelope and make an immediate effort to contact the voter by telephone;

(c) If no contact is made within 24 hours and it is more than two business days before the date of the election a notice in substantially the form of **Exhibit 2** will be mailed by 1st class mail to the voter shown on the ballot return envelope label;

(d) If the signature does not match the voter registration card and the problem is not resolved in time to count the ballot, and the election officer believes that there is evidence of a possible election law violation; the election officer shall send a copy of the ballot return envelope, voter registration card and any other supporting material to the Secretary of State for examination.

(5) If the signed return identification envelope is *unsealed* and:

(a) The secrecy envelope is sealed: File for precinct processing;

(b) The secrecy envelope is unsealed: Reject the envelope;

(c) The ballot is not in a secrecy envelope: Reject the envelope.

(6) Rejected return identification envelopes shall be placed in a "rejected ballots" envelope.

[ED. NOTE: The Exhibit(s) referenced in this rule are not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 254.470

Stats. Implemented: ORS 254.470

Hist.: ELECT 5-1989, f. & cert. ef. 8-16-89; ELECT 7-1992, f. & cert. ef. 2-26-92

**165-007-0070**

**Ballot Processing**

(1) Following signature verification, the election officer shall sort the return identification envelopes into precinct order and store them in a secure area.

(2) Not sooner than the fifth day before the election, the election officer may begin preparing the ballots for the count center.

(3) Process return identification envelopes from only one precinct at a time, at any one work station, in the following

manner:

- (a) Count and record the number of return identification envelopes for the precinct;
- (b) Open the return identification envelope and remove the secrecy envelope:
  - (A) If the secrecy envelope has a challenge number on it, the election officer shall insure the challenge number is written on back of the ballot;
  - (B) If any other printed material has been included in the return identification envelope, attach it to the secrecy envelope;
  - (C) If more than one secrecy envelope or more than one ballot, not in a secrecy envelope, is included in one return identification envelope, all contents shall be rejected Replace all contents in the return identification envelope and place in the "rejected ballots" envelope;
  - (D) If the return identification envelope contains a ballot without a secrecy envelope, remove the ballot and for the purpose of maintaining the secrecy of the ballot, place the ballot in a folder or envelope until such time that all ballots for that precinct have been removed from the return identification envelopes.
- (c) Open the secrecy envelope and remove the voted ballot:
  - (A) If any other printed material has been included with the ballot or if material has been attached to the secrecy envelope, inspect the material to determine if it has any bearing on determining the intent of the voter:
    - (i) If the material has bearing: Duplicate the ballot as necessary and place original ballot and the material in a "duplicated ballot" envelope;
    - (ii) If the material has no bearing: Discard the material.
  - (B) If more than one ballot is in the secrecy envelope, all ballots shall be rejected. Replace all ballots in the secrecy envelope and place the secrecy envelope and contents in a "rejected ballots" envelope;
  - (C) If candidate names were printed on the ballot, inspect for write-in votes. Process write-in votes in the manner prescribed by the election officer;
  - (D) If stubs are used, remove and keep separate by precinct;
  - (E) Inspect the ballot for damage or defects that would cause problems in tallying. Duplicate as prescribed by the election officer;
  - (F) When all ballots have been removed from the secrecy envelopes; stubs removed, inspected and all duplications have been completed, place the  
  
ballots in a container to be sent to the count center;
  - (G) Place the return identification and secrecy envelopes aside for storage;
  - (H) After the inspection process is completed, the ballots shall be stored in a secure area;
  - (I) The ballots shall be transported to the count center in a sealed container.
- (4) Upon completion of the ballot counting, the number of ballots processed shall be compared with the count of the return identification envelopes by precinct. The election officer shall reconcile the totals and resolve any discrepancies.
- (5) The election officer shall place the ballots, the "rejected ballots" envelope and the "defective/ duplicated ballots"

envelope in a sealed container(s) and store for the length of time prescribed in ORS 254.525(3).

(6) All return identification envelopes, except those rejected or undeliverable shall be retained with the master list of electors for the length of time prescribed in ORS 254.535. The master list of electors and the envelopes shall be the poll book record for the election.

Stat. Auth.: ORS Ch. 254

Stats. Implemented: ORS Ch. 254

Hist.: ELECT 5-1989, f. & cert. ef. 8-16-89

**165-007-0080**

**Replacement Ballots in Vote-by-Mail Elections**

(1) To request a replacement ballot,

an elector shall complete and sign a "Replacement Ballot Request Form" ( see **Exhibit 1**).

(2) An elector can request a replacement ballot

by phone, in writing or in person:

(a) If an elector requests a replacement ballot by phone or mail, the "Replacement Ballot Request Form" shall be mailed with the replacement ballot. The elector must return the completed and signed request form with the voted ballot to the elections office not later than 8 p.m. election day. If the completed and signed request form is not returned with the voted ballot, the ballot shall be rejected;

(b) The election officer need not mail a replacement ballot to an elector after the 5th day before the election date; however, the ballot shall be made available in the election office until 8 p.m. election day.

(3) Upon receiving a request for a replacement ballot, the election officer shall:

(a) Verify the registration of the elector and insure another ballot has not been returned by the elector;

(b) Note in the master list of electors that a replacement ballot has been issued;

(c) Clearly mark the return identification envelope so it may be readily identified as a replacement ballot;

(d) Issue the ballot by mail or other means.

(4) Upon receiving the replacement ballot, the election officer shall verify that another return identification envelope has not been returned by the same elector:

(a) If this is the only return identification envelope for the elector: Process the envelope;

(b) If the original and a replacement are returned by the elector: Do not count either of the ballots.

(5) The election officer shall insure a completed and signed "Replacement Ballot Request Form" is included in the return identification or secrecy envelope:

(a) If the request form is enclosed, complete and signed: Process the ballot;

(b) If the request form is not enclosed or is not complete or signed: Reject the ballot;

(c) Completed and signed request forms shall be kept in the return identification envelope by the elections office.

[ED. NOTE: The Exhibit(s) referenced in this rule are not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 254.470

Stats. Implemented: ORS 254.470(8)

Hist.: ELECT 6-1989, f. & cert. ef. 9-7-89; ELECT 17-1990, f. & cert. ef. 6-4-90

**165-007-0090**

**Vote-By-Mail Challenge Process**

The purpose of this rule is to establish a vote-by-mail challenge process as required by ORS 254.470(11):

(1) An absentee or vote-by-mail ballot may be challenged any time up until the ballot is separated from the return envelope.

(2) The county clerk shall keep a record of all challenges.

(3) The county clerk shall create a challenge form. A completed challenge form shall include the reason for the challenge, precinct number, challenge number and any other information pertinent to the challenge.

(4) If the voter returns a voted ballot inside a signed return envelope, the county clerk shall not deposit the ballot in ballot box, but shall hold the ballot aside. The voter's statement on the absentee or vote-by-mail return envelope shall suffice as the oath required of a challenged person under ORS 254.415(2).

(5) The county clerk shall examine each challenged ballot to determine whether the person

is validly registered to vote and if the vote was properly cast:

(a) If so, the challenge number shall be noted on the ballot and the ballot shall be counted (ORS 254.426);

(b) If the county clerk cannot determine that the person is validly registered the ballot shall not be counted.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 254.470(11)

Hist.: ELECT 25-1992(Temp), f. & cert. ef. 9-3-92; ELECT 9-1993, f. & cert. ef. 3-24-93; ELECT 2-1995, f. & cert. ef. 3-10-95

**165-007-0110**

**The Fail-Safe Ballot**

(1) "Fail-safe ballot" is defined as a ballot that contains only federal offices, statewide offices and statewide measures.

(2) Notwithstanding ORS 254.145(5), a fail-safe ballot need not have a removable stub or stub number.

(3) Notwithstanding ORS 254.115(1)(a) and ORS 254.135(1)(a), a fail-safe ballot need not contain the number or name of the precinct.

(4) Nothing in this rule shall prevent the use of ballot stubs and stub numbers on fail-safe ballots.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 247.205 & 247.306

Hist.: ELECT 26-1994, f. & cert. ef. 10-27-94

**165-007-0120**

**Official Site For Ballot Deposit**

(1) The purpose of this rule is to establish requirements and criteria for the designation of places of deposit for the ballots cast in vote by mail elections.

(2) Preparation:

(a) Each county elections official shall designate at least one official site for ballot deposit for any election and, for any statewide or countywide election, at least one additional official site for ballot deposit that is not located at the county courthouse or county elections office;

(b) The county elections official shall consider security, accessibility, concentrations of populations, equitable geographic distribution, available funding and ease of posting signs in selecting deposit sites.

(3) Security:

(a)The county elections official shall ensure that proper security measures are taken at all official site for ballot deposits;

(b) The county elections official shall ensure that the ballot depository (ballot box or other container in which voted ballots are to be placed) is locked or secure from being moved or tampered with; or

(c) The county elections official shall ensure that the ballot depository is in view of authorized personnel and secure at all times;

(d) The county elections official shall provide for security during the transportation of ballots from the official sites for ballot deposit to the county elections office for vote tally processing.

(4) Hours: Official sites for ballot deposit may be established on the first day ballots are mailed and may be open during the normal business hours of the identified official site for ballot deposit, but, at minimum, all official sites for ballot deposit shall be open to the public on election day for 8 hours or more and until 8:00 p.m.

(5) Training of staff:

(a) The county elections official shall instruct personnel at each official site for ballot deposit not to accept ballots prior to the ballot depository being delivered;

(b) The county elections official shall review procedures with personnel at each official site for ballot deposit to ensure security of ballots at all times;

(c) If overnight storage of ballots at the official site for ballot deposit is necessary, the county elections official shall ensure that the depository is secured in a locked room or vault, or that other appropriate security measures are taken.

(6) Placement of depository: The county elections official shall designate placement of the ballot depository at the drop site location. The county elections official shall consider the following in placement of the ballot box at the official site

for ballot deposit: security, voter convenience, physically disabled access, parking, public perception that official site for ballot deposit is official.

(7) Official plan:

(a) The county elections official shall file an official site for ballot deposit plan with the Secretary of State not later than the 30th day before the election;

(b) The plan shall include the dates and hours each site will be open, ballot transport, security, location and other considerations of each official site for ballot deposits;

(c) The Secretary of State form shall be used for filing;

(d) The county elections official shall notify the Secretary of State of any change in official site for ballot deposit plan after original plan is filed;

(e) The Secretary of State may respond to any plan, in writing, to indicate if it is insufficient or does not comply with the provisions of this rule.

(8) Public notification:

(a) The county elections official shall take the necessary steps to ensure that the public is aware of the locations of any established sites, the dates the sites are open and the hours that ballots may be deposited;

(b) The county elections official shall ensure official sites for ballot deposit are clearly identified by signs. A "ballot drop here" sign or similar sign should be posted at each official site for ballot deposit location. It is recommended that traditional "Vote Here" signs not be used for official sites for ballot deposit.

(9) Ballot transport:

(a) The county elections official shall determine frequency of ballot transports from official sites for ballot deposit;

(b) On election day, the county elections official shall ensure authorized personnel are available at official site for ballot deposits to close the ballot box at 8:00 p.m. and transport the ballots to the county elections office;

(c) Only the county elections official may authorize personnel to pick up ballots from official sites for ballot deposit.

Stat. Auth.: ORS 246.150 & 254.470

Stats. Implemented: ORS 254.470

Hist.: ELECT 13-1995, f. & cert. ef. 11-3-95

## 165-007-0130

### **Method of Calculating Registered Voters Eligible to Vote for Elections Conducted Pursuant to Article XI, section 11g (3) (a) and (4)(e)(A) of the Oregon Constitution**

(1) The purpose of this rule is to interpret two sections of Article XI, section 11g of the Oregon Constitution which require a particular voter turnout. This rule applies to elections conducted under section 11g (3)(a) (to approve new or additional ad valorem property tax levies) and 11g (4)(e)(A) (to approve taxing district annexations), except for the general election during an even numbered year. The constitution requires that the approval be obtained at an election where the number of electors casting a ballot is not less than 50% "of the registered voters eligible to vote on the question". Art XI, section 11g (3)(a), Or Constitution. Section 11g (4) (e) (A) uses the phrase "of the registered voters

eligible to vote in the election". This will be interpreted to be an identical requirement. These requirements will be interpreted consistently with the voter registration statutes in ORS chapter 247 and with the requirements of federal law (National Voter Registration Act, P.L. 103-31). The rule also interprets the phrase "cast a ballot". This rule applies only to vote by mail elections.

(2) County elections officials shall use this rule to assist in calculating the eligibility of voters in a particular election, for purposes of determining whether the election has sufficient turnout to allow a passing election conducted under section 11g (3)(a) (to approve new or additional ad valorem property tax levies) and 11g (4)(e)(A) (to approve taxing district annexations) to be considered approved.

(a) Within the district which is holding the election, determine the number of active registered voters as of the voter registration deadline in ORS 247.025. This is the base group of "registered voters eligible to vote".

(b) If any voter who is determined to be ineligible due to a change in residence address, or any other inactive voter, updates the voter's registration before the 7th day before the election as provided in ORS 247.304, the voter shall be considered eligible to vote and be added back into the total count of eligible voters.

(c) From the number determined in (2)(a) and (2)(b), subtract all voters who are determined during the particular election to be not eligible to vote, based on information received during the conduct of the election. These subtractions shall be made in the following manner. Subtract all voters who were mailed a ballot which is returned as undeliverable, if the information on the returned envelope shows that the voter's residence address has changed, or that the voter is deceased. Subtract all voters for whom written information is received, other than a returned ballot, showing to the satisfaction of the elections official that the voter is ineligible due to a residence address change or death.

(d) The information regarding eligibility used to make the calculations described in (2)(b) and (c) shall be made based on information received by the elections officer not later than 8:00 p.m. on election day. Information received after that time shall not be used to calculate the total number of eligible voters for that election.

(e) The calculation of the percentage of ballots cast to the number of eligible voters to vote on the question for that election shall be not later than the thirtieth (30th) day after the election.

(f) A voter eligible to vote within the district for the election conducted under section 11g (3)(a) (to approve new or additional ad valorem property tax levies) and 11g (4)(e)(A) (to approve taxing district annexations) shall be considered to have "cast a ballot" if the ballot has been returned to an elections office and the ballot is determined to be qualified to be counted (outer envelope contains signature of voter, signature matches the registration signature of the voter, no marks on outside of envelope which would cause ballot to be rejected). If these conditions are met, the ballot is "cast" even if the ballot, when opened for counting, is determined to be deficient and is not counted, or if the voter does not vote on the particular measure at issue in the calculation.

(g) Any voter issued a limited ballot as provided by law that excludes local measures and candidates shall be considered not eligible either at his or her prior residence address or at the new residence address.

Stat. Auth.: ORS 246.120, 246.150, 254.465, 254.470 & Or. Const. Article XI, section 11g

Stats. Implemented: Or. Const. Article XI, section 11g(3)(a) & (4)(e)(A)

Hist.: ELECT 3-1997, f. & cert. ef. 2-25-97; ELECT 11-1997, f. & cert. ef. 10-27-97

**165-007-0220**

**Timelines for the November 4, 1997 Special Election by Mail**

[Hist.: ELECT 7-1997(Temp), f. & cert. ef. 7-23-97]



[ED. NOTE: The text of Temporary rules is not printed in the OAR Compilation. Copies may be obtained from the agency.]

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**SECRETARY OF STATE, ELECTIONS DIVISION**

**DIVISION 8**

**REAPPORTIONMENT**

**165-008-0000**

**Purpose**

- (1) The purpose of OAR 165-008-0000 to 165-008-0060 is to provide by rule procedures in the event that the Secretary of State is required to prepare a reapportionment plan as provided in Section 6, Article IV of the Oregon Constitution.
- (2) These rules establish timelines, hearing procedures and guidelines for evaluation of the constitutional and statutory criteria governing reapportionment.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Elections Division.]

Stat. Auth.: ORS Ch. 188.015

Stats. Implemented: ORS 188.015

Hist.: ELECT 37-1990, f. & cert. ef. 10-18-90

**165-008-0010**

**Schedule If Legislature Does Not Complete Reapportionment by July 1**

- (1) Subsection (3) of Section 6, Article IV of the Oregon Constitution requires the Secretary of State to make the reapportionment if the legislature fails to enact a reapportionment by July 1 of the year following a federal census.
- (2) In this event, the Secretary of State will follow this schedule:
  - (a) July 15 -- Publish a draft reapportionment plan; distribute to the public;
  - (b) July 15 - 31 -- Accept written comments from the public;
  - (c) July 22 - 31 -- Conduct one or more public hearings at locations to be announced;

- (d) August 1 - 15 -- Transcribe hearing or hearings. Review "evidence, views and argument" submitted by the public. Prepare reapportionment plan;
- (e) August 15 -- Submit reapportionment plan, together with transcript and evidence, to the Supreme Court.

Stat. Auth.: ORS Ch. 188.015

Stats. Implemented: ORS 188.015

Hist.: ELECT 37-1990, f. & cert. ef. 10-18-90

**165-008-0020**

**Schedule if Legislature's Reapportionment is Not Approved by the Supreme Court and the Secretary of State is Directed to Draft a Reapportionment**

- (1) Subsection (2) of Section 6, Article IV of the Oregon Constitution requires the Secretary of State to draft a reapportionment when the Oregon Supreme Court determines that the reapportionment prepared by the legislature is deficient. The Supreme Court will "specify with particularity wherein the reapportionment fails to comply" and will direct the Secretary of State to draft a reapportionment which does comply with the constitution and applicable laws.
- (2) In this event, the Secretary of State will follow this schedule:
  - (a) On or before September 15 -- Supreme Court files order with Secretary of State directing preparation of a reapportionment;
  - (b) September 30 -- Publish a corrected reapportionment plan; distribute to public;
  - (c) September 30 - October 15 -- Accept written comments from the public;
  - (d) October 7 - 15 -- Conduct one or more public hearings at locations to be announced. The hearing or hearings shall be held in areas where the districts proposed by the legislature have been found insufficient by the Supreme Court. The Secretary of State may also, at the Secretary's discretion, hold hearings in other areas of the state if the Secretary determines additional hearings are needed to allow the public to participate;
  - (e) October 15 - 30 -- Transcribe hearing or hearings. Review "evidence, views and argument" submitted by the public. Prepare reapportionment plan;
  - (f) November 1 -- Submit corrected reapportionment plan, together with transcript and evidence, to the Supreme Court.

Stat. Auth.: ORS Ch. 188.015

Stats. Implemented: ORS 188.015

Hist.: ELECT 37-1990, f. & cert. ef. 10-18-90

**165-008-0030**

**Conduct of Public Hearings**

If the Secretary of State is required to hold a hearing pursuant to either subsection (2) or (3) of Section 6, Article IV of the Oregon Constitution, the following shall apply:

- (1) The Secretary of State will be the presiding officer at the hearing.
- (2) Persons wishing to testify must provide their name and address at the beginning of the hearing.
- (3) Each person may testify only once, even if there are multiple hearings. A person who testified at one hearing may be denied an opportunity to testify again at another hearing.
- (4) Each person may speak for no more than ten minutes.

Stat. Auth.: ORS Ch. 188.015

Stats. Implemented: ORS 188.015

Hist.: ELECT 37-1990, f. & cert. ef. 10-18-90

**165-008-0040**

**Submission of Evidence or Argument**

- (1) Persons may submit written evidence in the forms permitted by this section within the time permitted under OAR 165-008-0010 or 165-008-0020. If the written evidence is not submitted into the record at a hearing, it shall be delivered in person or mailed to and received by the office of the Secretary of State, Room 136, State Capitol, Salem, OR 97310. No evidence will be accepted after the last date specified in OAR 165-008-0010 or 165-008-0020.
- (2) In addition to evidentiary materials, any person may submit their views or argument concerning the apportionment within the same time limits provided for submission of evidence.
- (3) Written evidence may consist of written text, charts, maps, photographs, audio and/or video tape records or similar materials. All evidence submitted will become part of the record and will not be returned.

Stat. Auth.: ORS Ch. 188.015

Stats. Implemented: ORS 188.015

Hist.: ELECT 37-1990, f. & cert. ef. 10-18-90

**165-008-0050**

**Limits on Submission of Evidence, Views and Arguments**

Persons testifying in person at a public hearing or through submission of written evidence, views and argument shall limit their comments to addressing the criteria for reapportionment in Section 6, Article IV of the Oregon Constitution, ORS 186.010 and other applicable law. The person should identify the particular district or districts of concern, discuss how the proposed reapportionment does or does not meet the criteria and describe, if possible, what reapportionment plan would better meet the criteria.

Stat. Auth.: ORS Ch. 188.015

Stats. Implemented: ORS 188.015

Hist.: ELECT 37-1990, f. & cert. ef. 10-18-90

## 165-008-0060

### Criteria for Reapportionment

(1) In developing a reapportionment plan, the Secretary of State will comply with Section 6, Article IV of the Oregon Constitution, ORS 188.010 and any federal law which imposes requirements in addition to those imposed by the Oregon constitution and statutes.

(2) Compliance with the criteria of ORS 188.010(1) shall be to the maximum extent practicable. The following interpretations will be made of specific criteria:

(a) "Utilize existing geographic or political boundaries." When possible, districts will be drawn to utilize county lines and to maintain cities within a single district;

(b) "Not divide communities of common interest." Where urban neighborhoods, rural communities or other communities can be identified, an effort will be made to retain that community within a single district. Consideration will be given to market areas covered by local media;

(c) "Be connected by transportation links." Road connections of at least a county road should be available within the district from one area of the district to another. This does not apply to unpopulated areas of the district.

Stat. Auth.: ORS Ch. 188.015

Stats. Implemented: ORS 188.015

Hist.: ELECT 37-1990, f. & cert. ef. 10-18-90

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**SECRETARY OF STATE, ELECTIONS DIVISION**

**DIVISION 10**

**CANDIDATES AND POLITICAL PARTIES**

**165-010-0005**

**Designating the State Candidate's Manuals, County Candidate's Manual and Forms**

- (1) ORS 246.120 requires the Secretary of State to prepare and distribute to each county clerk detailed and comprehensive written directives and instructions on elections procedures.
- (2) ORS 246.150 requires the Secretary of State to adopt rules to facilitate correctness, impartiality and efficiency in administering election laws.
- (3) The Secretary of State designates the **1998 State Candidate's Manual: Major Political Party** and associated forms as the procedures and forms to be used by major political party candidates filing and running for state elective office.
- (4) The Secretary of State designates the **1998 State Candidate's Manual: Nonpartisan** and associated forms as the procedures and forms to be used by nonpartisan candidates filing and running for state elective office.
- (5) The Secretary of State designates the **1998 State Candidate's Manual: Minor Political Party** and associated forms as the procedures and forms to be used by minor political party candidates filing and running for state elective office.
- (6) The Secretary of State designates the **1998 State Candidate's Manual: Assembly of Electors** and associated forms as the procedures and forms to be used by nonaffiliated candidates filing and running by assembly of electors for state elective office.
- (7) The Secretary of State designates the **1998 State Candidate's Manual: Individual Electors** and associated forms as the procedures and forms to be used by nonaffiliated candidates filing and running by individual electors for state elective office.
- (8) The Secretary of State designates the **1998 County Candidate's Manual** and associated forms as the procedures and forms to be used by county office candidates and precinct committeeperson candidates filing and running for elective office.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 246.120, 246.150 & 249.009

Stats. Implemented: ORS 246.120, 246.150 & 249.009

Hist.: SD 35-1980, f. & ef. 3-6-80; SD 31-1983, f. & ef. 12-20-

83; SD 5-1986, f. & ef. 2-26-86; ELECT 9-1992(Temp), f. & cert. ef. 4-9-92; ELECT 32-1992, f. & cert. ef. 10-8-92; ELECT 33-1993, f. & cert. ef. 11-1-93; ELECT 1-1996, f. & cert. ef. 1-3-96; ELECT 8-1997, f. & cert. ef. 10-3-97

**165-010-0060**

**Procedure for Conduct of Meeting to Fill Vacancy in Legislative Assembly**

The following procedure has been adopted in accordance with ORS 171.060(1), which requires the Secretary of State to establish by rule procedures for conducting a meeting to fill a vacancy in the Legislative Assembly:

- (1) A meeting of the members of the county governing body(ies) shall convene at the time designated by the Secretary of State.
- (2) The chairperson conducting the meeting shall open the meeting and state the purpose of the meeting is to select, from a list of not fewer than three nor more than five nominees furnished by the Secretary of State, an appointee to fill a vacancy in the Legislative Assembly.
- (3) Members of the county governing body eligible to vote on the selection are those physically or electronically present at the meeting, who are currently holding office by election or appointment.
- (4) The county governing body(ies), in making its determination, may allot time for interviewing nominees and for other pertinent deliberations prior to voting.
- (5) The vote shall be taken in a manner specified by a majority of those present and eligible to vote on the selection. The person receiving the highest number of votes shall be the appointee. However, in any case, the vote of each member of the governing body(ies) shall be recorded and included in the written statement required by ORS 171.060(3).

Stat. Auth.: ORS 171.051, 171.060 & 249.200

Stats. Implemented: ORS 171.060(1)

Hist.: ELECT 7-1993, f. & cert. ef. 2-16-93

**165-010-0070**

**Filling Vacancy in Nomination of Major Political Party**

- (1) The purpose of this rule is to specify the period following a vacancy within which a major political party must notify the filing officer of the name of the new nominee.
- (2) The Secretary of State hereby specifies that the deadline for notifying the filing officer of the name of the new nominee, where there is a vacancy in nomination of a major political party office from the primary election, is the 70th day before the general elections.

Stat. Auth.: ORS 249.190

Stats. Implemented: ORS 249.190

Hist.: ELECT 17-1992(Temp), f. & cert. ef. 6-29-92; ELECT 40-1992, f. & cert. ef. 12-17-92; ELECT 14, 1994(Temp), f. & cert. ef. 7-22-94; ELECT 14-1996, f. & cert. ef. 12-19-96

**165-010-0080**

**Write-In Candidate Acceptance Form (SEL 141)**

The Secretary of State hereby adopts by reference and designates SEL 141 to comply with ORS 254.548 in contents required in accepting the nomination or election to office by write-in votes. SEL 141 shall be the filing form and shall contain:

- (1) Declaration of nomination or election;
- (2) Designation of party (American, Democratic, Libertarian, New Alliance, Republican, Nonpartisan or Other);
- (3) Office and department or position number, if any, for which candidate accepts nomination or election;
- (4) Candidate's full name;
- (5) If nomination, candidate's name as it should appear on ballot (may use nickname in parentheses);
- (6) Mailing address of candidate's residence;
- (7) Candidate's home and work telephone numbers;
- (8) If nomination, statement candidate is willing to accept nomination and will qualify if elected;
- (9) If elected, statement candidate will accept office;
- (10) Candidate's signature and date signed;
- (11) Statements warning against filing false information on form.

[ED. NOTE: The form(s) referred to or incorporated by reference in this rule are available from the Elections Division.]

Stat. Auth.: ORS 254.548

Stats. Implemented: ORS 254.548

Hist.: ELECT 8-1992(Temp), f. & cert. ef. 3-27-92; ELECT 30-1992(Temp), f. & cert. ef. 10-2-92; ELECT 8-1993, f. & cert. ef. 3-8-93

**165-010-0090**

**Order of Candidate Names on the Ballot**

- (1) The purpose of this rule is to establish the procedure for determining the order in which candidate names will appear on the ballot.
- (2) The Secretary of State shall provide to the county clerk a random ordering of the letters of the alphabet. The county clerk shall place each candidate's name on the ballot in the order that the first letter of the candidate's last name appears on the random order alphabet. For candidates whose last names begin with the same letter of the alphabet, the following procedure shall be followed:



- (a) For candidates whose last names begin with the same letter, the order of placement of these names (within the order allocated to the first letter of the last name) shall be determined according to the second letter of the last name. The county clerk shall place the candidates' names in the order the second letter appears on the randomly ordered alphabet. If both the first two letters are the same, the procedure shall be followed for the third and following letters in the surname;
- (b) If two or more surnames are identical, the order of placement of these names (within the allocated order) shall be according to the first letter of the first name of the candidates. If the first letter of the first name is identical the ordering shall be based on the second letter of the first name. If both the first two letters of the first name are identical, the same procedure is followed for the third and subsequent letters of the first name;
- (c) If two or more candidates have identical last and first names, the order of names will be according to the letters of the middle name in a like manner.
- (3) The Secretary of State shall provide the random alphabet to the county clerk not later than the 68th day before the election. The order of names shall be determined not later than the last day for the county clerk to certify the ballot.

Stat. Auth.: ORS 246.150 & 254.155

Stats. Implemented: ORS 245.155

Hist.: ELECT 4-1994, f. & cert. ef. 3-31-94

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**SECRETARY OF STATE, ELECTIONS DIVISION**

**DIVISION 12**

**CAMPAIGN FINANCE REGULATIONS**

**165-012-0005**

**Designating the 1996 Campaign Finance Manuals and Forms**

- (1) ORS 246.120 requires the Secretary of State to prepare and distribute to each county clerk detailed and comprehensive written directives and instructions on elections procedures.
- (2) ORS 246.150 requires the Secretary of State to adopt rules to facilitate correctness, impartiality and efficiency in administering election laws.
- (3) ORS 260.156 allows the Secretary of State to adopt rules for the manner of determining and reporting expenditures and contributions under ORS Chapter 260.
- (4) Pursuant to ORS 260.156, the Secretary of State designates the 1996 Campaign Finance Manual: Political Committees and the 1996 Campaign Finance Manual: Candidates and Principal Campaign Committees and associated forms as the procedures and guidelines to be used for compliance with Oregon campaign finance regulations.
- (5) The following language shall be an addendum to page 63 of the 1996 Campaign Finance Manual: Political Committees, in the section entitled "INDEPENDENT EXPENDITURES BY A POLITICAL COMMITTEE." This language shall be added after the second sentence in the second paragraph of that section: If the expenditure exceeds the dollar amounts for individuals and organizations other than political committees, (see "Reporting Individual/Independent Expenditures, Form PC 10," above), and is made in the accounting period for the Supplement to the Second Pre-election Statement, a PC 10 shall be filed no later than the day before the election. All reports of independent expenditures (PC 10 or PC 3) shall specify by name and expenditure amount, the candidate or measure each expenditure is made on behalf of or in opposition to. If reporting on a PC 3 form, the information should be noted in the "purpose" box.
- (6) As of March 24, 1997, the penalty matrix for late filings on page 77 of the 1996 Campaign Finance Manual: Political Committees is replaced with the penalty matrix for late filings identified as pc exhibit 1.
- (7) As of March 24, 1997, the penalty matrix for late filings on page 80 of the 1996 Campaign Finance Manual:

Candidates/Principal Campaign Committees is replaced with the penalty matrix for late filings identified as cc exhibit 1.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the Elections Division.]

Stat. Auth.: ORS 246.150 & 260.156

Stats. Implemented: ORS 260.005(8) & 260.156

Hist.: SD 101, f. & ef. 12-3-75; SD 120, f. & ef. 12-21-77; SD 34-1980, f. & ef. 3-6-80; SD 28-1983, f. & ef. 12-20-83; SD 3-1986, f. & ef. 2-26-86; ELECT 32-1988(Temp), f. & cert. ef. 8-26-88; ELECT 22-1989(Temp), f. & cert. ef. 11-9-89; ELECT 19-1990, f. & cert. ef. 6-4-90; ELECT 14-1992 (Temp), f. & cert. ef. 6-10-92; ELECT 37-1992, f. & cert. ef. 12-15-92; ELECT 34-1993, f. & cert. ef. 11-1-93; ELECT 1-1995(Temp), f. & cert. ef. 2-23-95; ELECT 15-1995, f. & cert. ef. 12-18-95; ELECT 9-1996, f. & cert. ef. 7-26-96; ELECT 5-1997, f. & cert. ef. 3-24-97; ELECT 6-1997(Temp), f. & cert. ef. 4-18-97

**165-012-0050**

**Contribution of Polls, Allocation of Polling Expenses**

- (1) The purpose of this rule is to establish procedures for the contribution of poll results in compliance with ORS chapter 260, the allocation of polling expenses for candidate polls, the valuation of poll results, and the reporting of in-kind contributions of poll results.
- (2) This rule does not apply to:
- (a) Individuals mentioned in a poll who are not candidates; and
  - (b) Polls conducted internally by a campaign or entity that are not contributed.
- (3) For purposes of this rule and, except where otherwise defined:
- (a) "Candidate" includes an agent of the candidate or an agent of the candidate's principal campaign committee.
  - (b) "Candidate Poll" means a poll or a portion of a poll in which any questions are asked about one or more candidates or individuals.
  - (c) "Contributor" means a purchaser of a poll or agent who gives the poll results to one or more nonpurchaser candidates or non-purchaser political committees.
  - (d) "Date of purchase" means the date that a person pays for a poll.
  - (e) "Issue Poll" means any poll or portion of a poll which is not a candidate poll.
  - (f) "Person" includes an agent of the person.
  - (g) "Political Committee" includes an agent of the political committee.
  - (h) "Poll:"
  - (A) Means a questioning of selected participants regarding one or more candidates or issues that comprises one or more questions, whether the questioning is commissioned or conducted by volunteers; and
  - (B) Includes a sample of participants that is a self-contained subset of all participants under paragraph (A) of this subsection.
  - (i) "Purchaser" means a person or political committee that requests or otherwise commissions and pays for a poll.

(j) "Receipt" means in the custody of a candidate or political committee. Examples of custody include but are not limited to physical or electronic possession or possession by means of telephonic or facsimile communication.

(k) "Results" means the raw data of a poll or any compiled conclusions and analysis supported by the raw data.

(4) The purchase of the results of a poll by a candidate or a political committee is an expenditure by the candidate or political committee.

(5) The acceptance of the results of a poll that have a value under section 11 of this rule by a candidate or political committee is an in-kind contribution by the contributor and an in-kind expenditure in the amount determined under section 11 of this rule and must be reported by:

(a) The recipient candidate or political committee; and

(b) If the contributor is required to file statements of contributions received and expenditures made under ORS 260.058 to 260.073, the contributor.

(6) A candidate or political committee accepts the results of a poll if the candidate or political committee:

(a) Requests the poll results; or

(b) Obtains the poll results from the contributor.

(7) A contributor of poll results shall retain records for two years sufficient to support the valuation of poll results and any allocation of poll costs.

(8) The contributor of a candidate poll shall determine:

(a) The percentage of the candidate poll's overall cost to be allocated to each of the candidates directly or indirectly affected by the candidate poll (Divide the number of questions in the sample received by a candidate by the total number of questions asked in the sample); and

(b) The base amount of in-kind contribution to each recipient candidate (Multiply the overall cost of the candidate poll by a particular candidate's percentage of the overall cost as calculated under subsection (a) of this section).

(9) For purposes of valuing poll results accepted by a candidate or political committee:

(a) A candidate poll shall have no value to any recipient candidate or political committee if the candidate poll is simultaneously released to each candidate who is running for nomination or election to an office covered by the candidate poll.

(A) The provisions of this subsection may be used only if a candidate poll covers more than one candidate.

(B) If any individual files for an office covered by a contributed candidate poll within 90 days of the candidate poll being valued under this subsection, the contributor must give the individual the candidate poll results not later than the 30th day after the date the individual files for the office.

(b) A candidate or issue poll shall have no value to any recipient candidate or political committee if the poll is released (prior to or simultaneously with delivery to a candidate covered in the poll or any political committee) to:

(A) The newspaper of largest circulation in the district from which a candidate or candidates are running, or if the district is statewide, to at least ten of the largest daily circulation newspapers in the state; and

(B) At least one broadcast media outlet licensed for commercial operations by the FCC whose primary broadcast coverage encompasses the district in which a candidate or candidates are running.

(c) A candidate or issue poll that is not valued under subsections (a) or (b) of this section shall be valued according to the valuation schedule provided in this subsection. Except as provided in subsection (d) of this section, poll results received by a candidate or political committee within the following time periods after the last (closing) day that the purchaser or other entity conducting the poll accepts data from which the poll results will be compiled (for example, the day the last oral questions are asked or the day that the purchaser stops accepting mail returns) shall have the corresponding value to the recipient as an in-kind contribution:

(A) 1 to 15 days after the closing day, 100 percent of the:

(i) Recipient candidate's base amount of in-kind contribution for a candidate poll calculated under section 10(b) of this rule;

(ii) Overall cost of a candidate poll for a recipient political committee; or

(iii) Overall cost of an issue poll for a recipient candidate or political committee.

(B) 16 to 60 days after the closing day, 50 percent of the:

(i) Recipient candidate's base amount of in-kind contribution for a candidate poll calculated under section 10(b) of this rule;

(ii) Overall cost of a candidate poll for a recipient political committee; or

(iii) Overall cost of an issue poll for a recipient candidate or political committee.

(C) 61 to 180 days after the closing day, 5 percent of the:

(i) Recipient candidate's base amount of in-kind contribution for a candidate poll calculated under section 10(b) of this rule;

(ii) Overall cost of a candidate poll for a recipient political committee; or

(iii) Overall cost of an issue poll for a recipient candidate or political committee.

(D) More than 180 days after the closing day, no value to the recipient candidate or political committee for a candidate or issue poll.

(d) Notwithstanding subsection (c) of this section, a poll conducted and completed more than 180 days prior to the next election to be held after the poll is conducted and completed shall have no value to any recipient candidates or political committees. "Conducted and completed" means that all questions, in any format, have been asked and further replies are not being accepted by the purchaser or other entity in charge of gathering data from which the poll results will be compiled, and that the poll results have been compiled.

(10) A candidate or political committee that has accepted the results of a poll believing that the results have no value or a particular value is liable for any fees or penalties owed as a result of having to report the acceptance as a previously unreported or underreported in-kind contribution and expenditure if the results of the poll are subsequently determined to have value or a higher value to the candidate or political committee.

Stat. Auth.: ORS 246.150 & Ch. 1, OL 1995

Stats. Implemented: Ch. 1, OL 1995

Hist.: SD 24-1986, f. & ef. 8-1-86; ELECT 2-1996, f. & cert. ef. 1-3-96; ELECT 5-1997, f. & cert. ef. 3-24-97

**165-012-0060**

**Slate Mailer Organizations**

- (1) Under ORS 260.737(2) and (5), the Secretary of State must adopt rules defining certain terms relating to slate mailer organizations.
- (2) As used in ORS 260.005, 260.735 and 260.737, these terms shall have the following meanings:
  - (a) "Legible size" means that the printing of the required notice will be no less than eight-point Helvetica type for any slate mailer 8-1/2 x 11 inches or less, and ten-point Helvetica type for any slate mailer larger than 8-1/2 x 11 inches. The required notice will be printed at the top or bottom of the front surface of the mailer;
  - (b) "Legible size and type" means that the notice shall be in a color of print which contrasts with the background of the mailer so as to be readily and easily legible, and in a printed (bold, italicized, or other means) or drawn box and set apart from any other printed matter. The size shall be as defined in subsection (a) of this section;
  - (c) "Payment" means the payment or furnishing of money or any thing of value or the incurring or repayment of indebtedness or obligation by or on behalf of a candidate, political committee or person for the purpose of participating in a mass mailing that supports or opposes a total of three or more candidates or measures.

Stat. Auth.: ORS 246.150 & 260.737

Stats. Implemented: ORS 260.737

Hist.: ELECT 2-1994, f. & cert. ef. 2-2-94

**165-012-0065**

**General Definitions**

- (1) The purpose of this rule is to provide general definitions to implement ORS chapter 260 and the rules adopted to interpret this chapter in Division 012, Title 165 of the Oregon Administrative Rules.
- (2) Unless otherwise provided in a specific rule or subsection thereof, the following definitions apply to the rules in Division 012 adopted to implement ORS chapter 260:
  - (a) "Candidate" means an individual meeting the definition under ORS 260.005(1)(a) or the principal campaign committee of the individual.
  - (b) "C&E" means a statement of contributions received and expenditures made by or on behalf of a candidate or political committee filed under ORS 260.058, 260.063, 260.068 or 260.073.
  - (c) "Collecting agent" means all collecting agents as defined in OAR 165-012-0070.
  - (d) "Connected organization" means any organization which is not a political committee but which has directly or indirectly established a political committee. A connected organization may be a corporation, labor organization, membership organization or trade association.
  - (e) "Corporation" includes for profit, nonprofit and professional corporations.
  - (f) "Contributor" means a person who makes a contribution.
  - (g) "Excess contribution" means any amount of a contribution which is greater than an applicable contribution limit of

ORS 260.160.

(h) "Measure committee" means a political committee organized exclusively to support or oppose one or more measures certified to a ballot in Oregon. Measure committee includes the committee designated by the chief petitioners of an initiative or referendum petition. Measure committee does not include a committee formed to support or oppose a petition not yet certified to a ballot, or to support or oppose an individual subject to a recall effort.

(i) "Payroll deduction" means a voluntary, written authorization to withhold, deduct or divert a contribution to a political committee from wages, salary or commissions earned.

(j) "Person" means an individual, corporation, limited liability company, labor organization, association, firm, partnership, joint stock company, club, organization or other combination of individuals having collective capacity as defined in ORS 260.005(15).

(k) "Prohibited funds contribution" means contributions from entities which are not allowed to make contributions under ORS 260.168 and 260.172.

(L) "Political committee" means all political committees as defined in ORS 260.005(16) except for principal campaign committees, measure committees and political committees organized exclusively to support or oppose one or more candidates for national or political party office.

(m) "Political party committee" means an organization that nominates or selects a candidate for election to public office whose name appears on the ballot.

(n) "Receipt" means in the physical custody of or placed into an account controlled by a candidate, collecting agent, connected organization or political committee.

(o) "Separate Segregated Fund" (SSF) means a political committee established by a corporation or labor organization that includes the full name of the corporation or labor organization or a clearly recognized abbreviation or acronym by which the corporation or labor organization is commonly known in the name of the SSF.

(p) "Solicitation" or "solicit" means any request for a contribution.

(q) "Treasury Funds" includes any monies received or raised by a corporation or labor organization in commercial transactions or from dues.

Stat. Auth.: ORS 246.150 and 260.005 through 260.255

Stats. Implemented: ORS 260.005 through 260.255

Hist.: ELECT 7-1995, f. & cert. ef. 6-30-95; ELECT 5-1996, f. & cert. ef. 1-30-96

**165-012-0070**

**Connected Organizations and Separate Segregated Funds**

- (1) The purpose of this rule is to establish which activities between connected organizations and separate segregated funds (SSF) are authorized under ORS chapter 260.
- (2) This rule authorizes connected organizations to conduct fundraising campaigns or solicitations in accordance with this rule by means of payroll deductions, dues collections or direct mailings to authorized recipients jointly with the connected organization's SSF.
- (3) This rule does not authorize:

(a) A connected organization to employ or pay an individual to do administrative or other work for the organization's SSF outside of activity necessary for conducting fundraising campaigns or solicitations authorized by this rule; or

(b) Joint activity by multiple candidates or political committees.

(4) This rule is not intended to restrict the activities of measure committees.

(5) For purposes of this rule and, except where otherwise defined, in addition to the definitions of OAR 165-012-0065:

(a) "Check" means any negotiable instrument.

(b) "Collecting agent:"

(A) Means:

(i) A connected organization;

(ii) A parent, subsidiary, branch, division, department or local unit of a connected organization; or

(iii) A local, national or international labor organization that collects contributions for a separate segregated fund of any federation with which the local, national or international labor organization is associated.

(B) Does not include an individual, commercial fundraising firm, partnership or political committee.

(c) "Connected organization" means any organization which is not a political committee but which has directly or indirectly established a political committee. A connected organization may be a corporation, labor organization, membership organization or trade association.

(d) "Contributor" means an individual who specifically and voluntarily designates that all or a portion of a check or a payroll deduction be provided to one or more separate segregated funds.

(e) "Immediate" or "immediately" means within 31 calendar days.

(f) "Member" means all persons who are currently satisfying the requirements for membership in a membership organization. For example, a "member" of a local union is also considered a member of a national or international union to which the local union belongs or of any labor federation to which the local, national or international union belongs.

(g) "Trade association" generally means a membership organization of persons engaging in a similar or related line of commerce, that is organized to promote and improve business conditions in that line of commerce and not to engage in a regular business of a kind ordinarily carried on for profit, and in which no part of net earnings is received by a member.

(h) "Transfer" means the movement of funds from a collecting agent to connected organizations or SSFs as authorized by this rule.

(6) **Solicitation Process.** A collecting agent may include a solicitation for voluntary contributions to an SSF in communications permitted under sections (7) through (9) of this rule. All contributions solicited under this rule must be specifically designated. The solicitation may be part of a payroll deduction, a dues collection or a direct mailing.

(7) A corporation acting as a collecting agent may only communicate with shareholders or members, executive or administrative personnel, employees and their families. Except as otherwise provided in this rule, a communication under this section shall be limited to an indication of how the individuals can contribute to an SSF established by the corporation.

(8) A labor organization acting as a collecting agent may only communicate with members of the organization and their families. Except as otherwise provided in this rule, a communication under this section shall be limited to an indication



of how the individuals can contribute to an SSF established by the labor organization.

(9) A membership organization or trade association that is a corporation may solicit the members of the organization or association, including non-corporate members (such as individuals and associations), shareholders and employees. Before soliciting members under this section, the organization or association must explicitly define the term "members" in the written bylaws of the organization or association.

(10) For purposes of this rule:

(a) A contributor specifically designates a contribution when:

(A) The solicitation material specifies the amount of the contribution that will be credited to each SSF and provides a means to decline to contribute to any or all SSFs and the contributor does not decline the apportionment specified in the solicitation material;

(B) The solicitation material requires the contributor to designate the recipients and amounts of any contributions and the contributor complies; or

(C) The contributor clearly indicates on the check or other accompanying document the amount designated for each recipient SSF.

(b) In the absence of a specific designation by a contributor, a connected organization must contact the contributor for the specific designation or return the contribution.

(11) For purposes of this rule:

(a) Contributions are voluntary if all provisions of this rule have been complied with during the soliciting, collecting, and transferring of the contributions.

(b) Contributions are not voluntary if the monies are obtained:

(A) From dues required as a condition of membership by a labor organization or as a condition of employment, even if they are refundable upon request of the contributor; or

(B) In any commercial transaction.

(12) A corporation, labor organization, or SSF:

(a) May suggest a guideline for contributions if the corporation, labor organization or SSF informs the individuals being solicited in the solicitation materials that:

(A) The guidelines are merely suggestions;

(B) The individual is free to contribute more or less than the guidelines suggest or to elect not to contribute at all; and

(C) The corporation or labor organization will not favor or disadvantage any individual by reason of the amount of the individual's contribution or the individual's decision to not contribute;

(b) May not enforce any guideline for contributions.

(13) An individual shall not be paid or compensated for making a contribution. Examples of prohibited reimbursement under this section include bonuses, access to expense accounts or any other form of direct or indirect payment or compensation.

(14) **Collection Process.** A contributor solicited under this rule may write a single check that represents both a contribution and a payment of dues or other fees.

(15) Under a payroll deduction or checkoff plan, an individual may simultaneously authorize deductions of membership dues or fees and an SSF contribution.

(16) When collecting a contribution for an SSF, a connected organization may not use a reverse checkoff plan whereby contributions are automatically deducted from an individual's paycheck without the individual's prior approval. A reverse checkoff plan is not voluntary even if the individual can request a refund of the amount deducted.

(17) **Transfer Process.** The designated SSF recipient of a contribution transferred under this rule shall ensure that the contribution does not violate any prohibitions or limitations under ORS chapter 260. The transfer of a solicited contribution from a corporate or labor organization collecting agent to an SSF is not a prohibited treasury funds contribution under ORS 260.172.

(18) If a contributor designates a portion of a check for an SSF, the collecting agent to which the check was delivered may:

(a) Split the funds as designated at the financial institution before deposit into the appropriate accounts; or

(b) Deposit the total funds into the account of the collecting agent for transfer of the allocated amounts to the proper organization(s) or SSF(s); or

(c) Establish a transmittal account to be used solely for the deposit and transfer of collected funds.

(19) When monies are collected by payroll deduction, a collecting agent may transfer funds to an SSF that represent a combined payment of voluntary contributions to the SSF and dues or other membership fees to a collecting agent. The SSF shall follow the procedures in this rule to properly allocate the funds based on the contributor's designation(s).

(20) Any funds transferred between connected organizations and SSFs under this rule shall be transferred immediately.

(21) **Reimbursement.** Except as provided in section (22) of this rule, an SSF shall pay the collecting agent all costs attributable to the soliciting, collecting, and transferring of contributions to the SSF under this rule. The SSF shall pay these costs in advance or by immediate reimbursement. If the costs are not reimbursed as required by this section, the expenditure of funds by a corporate or labor organization collecting agent is a prohibited treasury funds contribution under ORS 260.172.

(22) Notwithstanding section 21 of this rule, a collecting agent that is allowed under ORS chapter 260 to contribute to miscellaneous political committees does not have to reimburse the organization's SSF for costs attributable to the soliciting, collecting, and transferring of contributions to the SSF under this rule. However, the SSF still has to comply with reporting requirements regarding any transferred contributions.

(23) **Reporting.** An SSF that receives a contribution under this rule must account for the contribution not later than the seventh day after receipt as required by ORS 260.055. When funds are received under this rule, the SSF shall, on the appropriate C&E statements:

(a) Record the contribution as made by the contributor; and

(b) If the contributor made the original contribution by check, identify the party to whom the check was made payable.

(24) A collecting agent that is not otherwise required to file as a political committee under ORS chapter 260 and that follows the procedures in this rule is not required to become a political committee to act as a collecting agent provided that the collecting agent does not engage in other activities which would require registration as a political committee, such as making contributions or expenditures.

Stat. Auth.: ORS 246.150 and 260.005 through 260.255

Stats. Implemented: ORS 260.005 through 260.255

Hist.: ELECT 8-1995, f. & cert. ef. 6-30-95; ELECT 5-1996, f. & cert. ef. 1-30-96

## 165-012-0080

### Use of Campaign Funds for Ordinary and Necessary Expenses

(1) The purpose of this rule is to interpret ORS 260.407(1)(a) and (2) relating to the use of excess campaign contributions.

(2) **Definitions.** For purposes of this rule:

(a) "Campaign funds" means excess campaign contributions; and

(b) "Excess campaign contributions means those amounts received as contributions that are in excess of any amount necessary to defray campaign expenditures and any other funds donated to a holder of public office.

(3) **Ordinary and Necessary Expenses, Personal Use.** An office holder:

(a) May use campaign funds to defray any ordinary and necessary expenses incurred in connection with the person's duties as a holder of public office.

(b) Shall not convert any campaign funds to any personal use other than to defray any ordinary and necessary expenses incurred in connection with the person's duties as a holder of public office.

(4) Expenses are ordinary and necessary only if directly related to the office holder's official duties.

(5) Office holders shall reimburse their principal campaign committees for any personal use of items paid for with campaign funds and comply with any rules or policies the governing body has in regards to allocating expenses between official duties and personal use.

(6) **Reimbursable Expenses.** Except as specifically provided in sections 7 through 9 of this rule, if an expense is currently reimbursable by the governing body on which the office holder serves, the office holder may use campaign funds to substitute for any or all of the amount the office holder would have received as a reimbursement from the governing body for that expense. If an expense exceeds that which is reimbursable or payable by the governing body, the office holder shall not use campaign funds to pay that portion of the expense which is excess.

(7) **Travel Expenses.** When an office holder appears or participates in an event which bears a relationship to the office holder's official duties and the travel expenses incurred for attending the event are reimbursable or payable by the governing body, the office holder may use campaign funds to substitute for any or all of the amount the office holder would have received as a reimbursement from the governing body for the expenses or that the governing body would have paid directly to the service providers for the expenses.

(a) "Travel expenses" include transportation costs, lodging and meals.

(b) If a travel expense exceeds that which is reimbursable or payable by the governing body, the office holder shall not use campaign funds to pay that portion of the expense which is excess.

(c) For example. A governing body normally reimburses an office holder for a coach airline ticket which requires a Saturday night stay, a standard hotel room, and three meals per day at a set allowance per meal. An office holder on official travel flies first class, upgrades to a deluxe room and eats meals that exceed the set allowance per meal. The office holder may not use campaign funds to pay the differences between a coach and first class airline ticket, a standard and deluxe hotel room, and meals at the set allowance per meal and those above the allowance.

(8) **Per Diems or Expense Allowances for Official Duties.** If the governing body provides a daily or monthly per diem or allowance for certain expenses related to official duties, including a per diem established under ORS 171.072(3), the office holder may use campaign funds to substitute for any or all of the amount of the per diem or allowance the office holder would have received from the governing body for the expenses. If an office holder incurs expenses that exceed the amount covered by a per diem or an allowance for official duties, the office holder shall not use campaign funds to pay the excess amount.

(9) **Allowances for Services, Supplies, and Staff.** If the governing body provides a daily or monthly per diem or allowance for services and supplies related to official duties or staff, the office holder may use campaign funds to substitute for any or all of the amount of the per diem or allowance the office holder would have received from the governing body for the expenses. If an office holder incurs expenses for services, supplies or staff under this section that exceed the amount covered by an allowance, the office holder shall not use campaign funds to pay the excess amount.

(10) **Other Expenses.** For other expenses not referenced in sections 7 through 9 of this rule and that are not reimbursable by the governing body on which the office holder serves, the office holder may use campaign funds to pay for any ordinary and necessary expenses incurred in connection with the person's duties as a holder of public office, including:

- (a) Telephone and pager expenses;
- (b) Mileage for the office holder's personal vehicle, at the same rate paid by the governing body or, if the governing body does not pay mileage, at the rate paid by the State of Oregon;
- (c) Purchase or lease of office equipment and supplies;
- (d) Purchase or lease of an automobile;
- (e) Service and fuel for a leased or purchased vehicle;
- (f) Room rental for public meetings;
- (g) Expenses associated with employees performing official business; and
- (h) Any other non-reimbursable expenses that may be incurred to perform official office holder duties that are not reimbursed by the governing body on which the office holder serves.

(11) If the office holder uses campaign funds to purchase or lease an automobile, or uses campaign funds to service and fuel a purchased or leased automobile, the office holder may accept mileage reimbursement from the governing body. If the office holder accepts reimbursement, the entire amount of the reimbursement must be remitted to the office holder's principal campaign committee, unless the committee and the office holder each pay a portion of automobile expenses (such as lease, purchase, fuel, or service costs), in which case the reimbursement shall be apportioned appropriately.

(12) **Voluntary Expenditure Limits.** If a candidate has filed a Declaration of Limitation on Expenditures, all campaign funds spent in accordance with this rule with respect to a primary or general election count against the candidate's expenditure limits under ORS 260.180.

Stat. Auth.: ORS 246.150 & 260.005 - 260.255

Stats. Implemented: ORS 260.005 - 260.255

Hist.: ELECT 8-1995, f. & cert. ef. 6-30-95; ELECT 5-1996, f. & cert. ef. 1-30-96; ELECT 5-1997, f. & cert. ef. 3-24-97

**Political Committee Directors**

(1) The purpose of this rule is to clarify the political committee filing requirements for committee directors in statements of organization required by ORS 260.042.

(2) A political committee shall include on a statement of organization filed under ORS 260.042 the name, address and occupation of all committee directors who comply with the definition of committee director under ORS 260.005(2).

(3) The treasurer of the political committee may also serve as a committee director if the treasurer meets the definition of committee director under ORS 260.005(2) and if there is at least one other individual listed as a director.

Stat. Auth.: ORS 246.150 and 260.005 through 260.255

Stats. Implemented: ORS 260.005 through 260.255

Hist.: ELECT 7-1995, f. & cert. ef. 6-30-95; ELECT 5-1996, f. & cert. ef. 1-30-96

**165-012-0130**

**Time Frame for Counting Attributable Expenditures**

(1) The purpose of this rule is to clarify the definitions of "with respect to the primary election" and "with respect to the general election" under section 5 of the Act, as the definitions relate to the filing of a declaration of limitation on expenditures under section (6) of the Act.

(2) In determining the period for counting attributable expenditures for a candidate who files a declaration of limitation on expenditures:

(a) "With respect to the primary election" means the period:

(A) Beginning on the date that the name of a treasurer for a candidate, who is becoming subject to ORS chapter 260 for the first time, or the candidate's principal campaign committee is first certified to the filing officer under ORS 260.035 or 260.037 for the primary election and ending on the 20th day after the date of the primary election;

(B) Beginning on the day following the last day of the accounting period for a previous statement of contributions received or expenditures made if the statement shows an unexpended balance of contributions or an expenditure deficit, and ending on the 20th day after the date of the primary election; or

(C) Beginning on the day following the last day of the accounting period for a previous statement of contributions received and expenditures made if the statement shows no balance or deficit and the candidate or the candidate's principal campaign committee has not filed for discontinuation, and ending on the 20th day after the date of the primary election.

(b) "With respect to the general election" means:

(A) For a candidate nominated by a major political party at the primary election, the period extending from the 21st day after the primary election to December 31;

(B) For a candidate for the office of Superintendent of Public Instruction or Commissioner of the Bureau of Labor and Industries, the period extending from the 21st day after the primary election to December 31; or

(C) For a candidate not nominated at the primary election, the period extending from:

(i) The date the name of a treasurer for the candidate, who is becoming subject to ORS chapter 260 for the first time, or

the candidate's principal campaign committee is first certified to the filing officer under ORS 260.035 or 260.037 for the general election, to December 31;

(ii) The day following the last day of the accounting period for a previous statement of contributions received or expenditures made if the statement shows an unexpended balance of contributions or an expenditure deficit, to December 31; or

(iii) The day following the last day of the accounting period for a previous statement of contributions received and expenditures made if the statement shows no balance or deficit and the candidate or the candidate's principal campaign committee has not filed for discontinuation, to December 31.

(3) Once the period for counting attributable expenditures for a primary or general election begins under section (2) of this rule, a subsequent change of treasurer within the period does not affect the ending date of the period.

Stat. Auth.: ORS 246.150; Ch. 1, Oregon Laws 1995

Stats. Implemented: Chapter 1, Oregon Laws 1995

Hist.: ELECT 12-1995, f. & cert. ef. 10-30-95

**165-012-0140**

**Exemptions from the Definition of Contribution and Expenditure**

(1) The purpose of this rule is to clarify the exemptions for reception costs and travel expenses from the definition of contribution and expenditure under section 2 of the Act.

(2) Section 2(2) of the Act exempts those candidate reception costs incurred *by an individual* who is using the individual's own personal residence, including a community room associated with the individual's residence, for invitations, food, and beverages provided at the reception for the candidate. Those costs incurred by any other person who co-hosts or makes expenditures for the reception are considered contributions and expenditures.

(3) Example: Jane is holding a potluck dinner at her home for Candidate Green. John, Jane's neighbor, wants to co-host the dinner with Jane and bring additional food and beverages to the dinner. If John co-hosts and brings food and beverages, his expenses are a contribution that Candidate Green must report as an in-kind contribution. Jane's costs are still exempt.

(4) Section 2(4) of the Act exempts those travel expenses incurred by an individual *who travels with or on behalf of* a candidate. Travel services provided free of charge to a candidate by an individual who does not travel with or on behalf of a candidate, or travel services provided by any other person, are not exempt.

(5) Example: If a candidate's friend wants to pay for the candidate's upcoming campaign trip without the payment being considered a contribution to the candidate, the friend must travel with the candidate on the trip. If the friend pays but does not travel with the candidate, the payment is a contribution.

Stat. Auth.: ORS 246.150 & Ch. 1, OL 1995

Stats. Implemented: Ch. 1, OL 1995

Hist.: ELECT 12-1995, f. & cert. ef. 10-30-95; ELECT 5-1997, f. & cert. ef. 3-24-97

**165-012-0150**

**Declarations of Limitation on Expenditures**

(1) The purpose of this rule is to:

(a) Establish penalty provisions under ORS 260.997 for exceeding the applicable expenditure limit of a filed declaration of limitation on expenditures;

(b) Clarify ORS 260.180 regarding when a candidate who has filed a declaration of limitation on expenditures shall not be bound by the declaration;

(c) Establish provisions for the use of a declaration of limitation on expenditures when a candidate at a primary or general election changes candidacy from:

(A) An office other than a statewide office or the office of state Senator or state Representative to candidacy for a statewide office or the office of state Senator or state Representative; or

(B) One office to another office as described in subsection (d) of this section and did not file a declaration of limitation on expenditures for the original office sought.

(d) Clarify the effect of a filed declaration of limitation on expenditures when a candidate at a primary or general election changes candidacy from:

(A) One statewide office to candidacy for another statewide office;

(B) One statewide office to candidacy for the office of state Senator or state Representative;

(C) The office of state Senator or state Representative to candidacy for a statewide office; or

(D) The office of state Senator or state Representative to candidacy for the other state legislative office.

(2) For purposes of this rule:

(a) "Changes candidacy" means the process by which a candidate both:

(A) Withdraws as a candidate for one elective office; and

(B) Becomes a candidate for another elective office as described in section 1 of this rule by filing the appropriate documents with the Secretary of State.

(b) "Declaration of limitation on expenditures" or "Declaration" means the form prescribed by the Secretary of State under ORS 260.182 (Form CC 12).

(c) "Statewide office" means the office of Governor, Secretary of State, State Treasurer, Attorney General, Superintendent of Public Instruction, and Commissioner of the Bureau of Labor and Industries.

(d) "Withdraws" means:

(A) Filing a statement of withdrawal under the provisions of ORS 249.170;

(B) Filing a written statement declining nomination under ORS 249.830; or

(C) Any other method which demonstrates that a candidate is no longer a candidate for a particular elective office.

(3) Penalty Provisions. Except as provided in section 4 of this rule, if the Secretary of State or the Attorney General finds under ORS 260.265 that a candidate who has filed a declaration of limitation on expenditures has exceeded the applicable expenditure limit, the Secretary or Attorney General shall impose a civil penalty in the manner provided in

ORS 260.995 in one of the following amounts:

(a) If the candidate exceeds the applicable expenditure limit by ten percent or less, the amount of the expenditure or expenditures that exceeded the applicable expenditure limit; or

(b) If the candidate exceeds the applicable expenditure limit by more than ten percent, two times the amount of the expenditure or expenditures that exceeded the applicable expenditure limit.

(4) The Secretary of State or Attorney General shall not impose a civil penalty against a candidate if the Secretary or Attorney General finds that the candidate has exceeded the applicable expenditure limit:

(a) With respect to the primary election, by no more than:

(A) \$5,000 for the office of Governor;

(B) \$2,000 for any other statewide office;

(C) \$300 for the office of state Senator; and

(D) \$200 for the office of state Representative.

(b) With respect to the general election, by no more than:

(A) \$10,000 for the office of Governor;

(B) \$4,000 for any other statewide office;

(C) \$600 for the office of state Senator; and

(D) \$400 for the office of state Representative.

(5) Candidate Not Bound by Declaration. A candidate who has filed a declaration of limitation on expenditures shall not be bound by the declaration if any opposing candidate for the same nomination or office at the same election who has not withdrawn the individual's candidacy:

(a) Has not filed a declaration; or

(b) Has filed a declaration but has made expenditures exceeding the applicable limit.

(6) Declarations of Limitation on Expenditures. Subject to section 7 of this rule and except as provided in section 8 of this rule, a candidate changing candidacy may file a declaration for the new office sought and make attributable expenditures after changing candidacy up to the applicable expenditure limit for the new office sought.

(7) If a candidate files a declaration under section 6 of this rule:

(a) Attributable expenditures made when the candidate was a candidate for the original office sought apply to the expenditure limit for the new office sought; and

(b) The beginning of the period for counting attributable expenditures for the new office sought is the same as the beginning of the period for counting attributable expenditures for the original office sought.

(8) If a candidate filing a declaration under section 6 of this rule makes attributable expenditures before changing candidacy that exceed the applicable expenditure limit:

(a) For the new office sought, the candidate is liable for a civil penalty under section 1 of this rule and ORS 260.997 for the excess expenditures; and



(b) For the original office sought, but not the applicable expenditure limit for the new office sought, the candidate is liable for a civil penalty under section 1 of this rule and ORS 260.997 for the excess expenditures, even though the candidate is no longer a candidate for the original office sought.

(9) When a candidate who changes candidacy does not withdraw from candidacy for the new office sought, a candidate at the same election who has filed a declaration for the new office sought by the candidate changing candidacy shall not be bound by the declaration if the candidate changing candidacy:

- (a) Does not file a declaration under section 6 of this rule; or
- (b) Does file a declaration under section 6 of this rule and is considered to have exceeded the applicable expenditure limit under section 8(a) of this rule.

(10) Subject to section 8(b) of this rule, a declaration filed for the original office sought is void after the candidate changes candidacy to the new office sought.

Stat. Auth.: ORS 246.150 & Ch. 1, OL 1995

Stats. Implemented: ORS 260.182 & 260.202

Hist.: ELECT 15-1995, f. & cert. ef. 12-18-95; ELECT 5-1997, f. & cert. ef. 3-24-97

**165-012-0180**

**Measure Committee Activities**

(1) The purpose of this rule is to:

- (a) Define what activities of a measure committee are prohibited and what activities are permissible; and
- (b) Establish penalty provisions for engaging in a prohibited activity.

(2) For purposes of this rule:

(a) "Measure committee" means a political committee organized exclusively to support or oppose one or more measures certified to a ballot in Oregon. Measure committee includes the committee designated by the chief petitioners of an initiative or referendum petition. Measure committee does not include a committee formed to support or oppose a petition not yet certified to a ballot, or to support or oppose an individual subject to a recall effort.

(b) "Violation" means each instance when a measure committee makes a prohibited contribution or expenditure in a calendar year.

(3) Exclusive Contributions. A measure committee may engage in any activity not prohibited by this section. The following activities are considered to be nonexclusive activities and are prohibited:

- (a) Contributions to a candidate, principal campaign committee, miscellaneous political committee or a political party committee; and
- (b) Independent expenditures, as defined in ORS 260.005.

(4) Penalty Provisions. Subject to section 5 of this rule, if a measure committee engages in an activity prohibited by section 3 of this rule, the committee shall be fined:

- (a) For a first violation, the amount of the nonexclusive contribution or expenditure, not to exceed \$250.

(b) For a second or subsequent violation, \$250.

(5) **Reassignment.** The Secretary of State may determine at any time that a political committee is not properly filed as a measure committee and reclassify the committee as a miscellaneous political committee. When reclassified, the committee shall refile as a miscellaneous political committee.

Stat. Auth.: ORS 246.150 & Ch. 1, OL 1995

Stats. Implemented: Ch. 1, OL 1995

Hist.: ELECT 15-1995, f. & cert. ef. 12-18-95; ELECT 5-1997, f. & cert. ef. 3-24-97

**165-012-0200**

**ndependent Expenditures, Reporting and Penalties**

(1) The purpose of this rule is to establish reporting and penalty provisions under ORS 260.188 and 260.997 relating to expenditures reported as independent expenditures that do not qualify as independent expenditures under ORS 260.005.

(2) For purposes of this rule and, except as otherwise defined, "person" includes candidates and political committees.

(3) **Reporting.** If an expenditure reported as an independent expenditure does not qualify as an independent expenditure under ORS 260.005:

(a) The candidate on whose behalf the expenditure was made shall report the value of the expenditure as an in-kind contribution by the person making the expenditure and an expenditure for the accounting period during which the expenditure was made; and

(b) If the person making the expenditure was a candidate, the candidate making the expenditure shall report the expenditure for the accounting period during which the expenditure was made.

(4) **Penalty Provisions.** When a candidate reports the receipt of an in-kind contribution or the making of an expenditure under section 3 of this rule:

(a) If the report by the candidate is made after the new transaction deadline for the accounting period during which the contribution was received or the expenditure was made, the candidate is subject to penalties for a new transaction; and

(b) If, as a result of the expenditure under this rule, a candidate exceeds the applicable expenditure limit of a filed declaration of limitation on expenditures, the candidate is subject to penalties for making expenditures in excess of the applicable expenditure limit.

(5) Except as provided in section 6 of this rule, if a person reports an expenditure as an independent expenditure and the expenditure does not qualify as an independent expenditure under ORS 260.005, the Secretary of State or Attorney General shall impose a civil penalty against the person in the manner provided in ORS 260.995 in one of the following amounts:

(a) If the nonqualifying expenditure is less than \$10,000, the value of the nonqualifying expenditure; or

(b) If the nonqualifying expenditure is \$10,000 or more, \$10,000.

(6) Notwithstanding section 5 of this rule, the Secretary of State or Attorney General shall not impose a civil penalty against a person making a nonqualifying expenditure if the value of the nonqualifying expenditure is less than \$250.

Stat. Auth.: ORS 246.150 & 260.005 - 260.255

Stats. Implemented: ORS 260.005 - 260.255

Hist.: ELECT 5-1996, f. & cert. ef. 1-30-96; ELECT 5-1997, f. & cert. ef. 3-24-97

**165-012-0210**

**Chief Petitioner Committees**

- (1) The purpose of this rule is to ensure a uniform organization for chief petitioner committees under ORS 260.118(1).
- (2) This rule applies to the chief petitioners of a statewide initiative or referendum petition filed for the 1998 General Election or thereafter and to any recall petition filed after the effective date of this rule.
- (3) The chief petitioners of a statewide initiative, referendum or recall petition shall appoint a treasurer and file a statement of organization under ORS 260.118 for that petition only, and shall keep accounts and file reports under ORS chapter 260 for that single and distinct committee separate from any other chief petitioner committee or other political committee.
- (4) Nothing in this rule is intended to prohibit any:
  - (a) Individual from being a chief petitioner for any other petition subject to this rule; or
  - (b) Measure committee from supporting or opposing any other measure committee, including a chief petitioner committee.

Stat. Auth.: ORS 246.150 & 260.118

Stats. Implemented: ORS 260.118

Hist.: ELECT 2-1997, f. & cert. ef. 2-25-97

**165-012-0220**

**Measure Committees Converting to Miscellaneous Committees**

- (1) The purpose of this rule is to establish procedures for a measure committee to convert to a miscellaneous committee.
- (2) For purposes of this rule:
  - (a) "Measure Committee" means a political committee organized exclusively to support or oppose one or more measures certified to a ballot in Oregon. Measure committee includes the committee designated by the chief petitioner(s) of an initiative or referendum petition. Measure committee does not include a committee formed to support or oppose a petition not yet certified to a ballot or to support or oppose an individual subject to a recall effort. Individuals who make contributions to measure committees qualify for tax credit under OAR 150-316.102.
  - (b) "Miscellaneous Committee" means a committee organized to support or oppose one or more candidates, measures certified to a ballot in Oregon, or political parties, but which is not a measure committee, principal campaign committee or political party committee. Individuals who make contributions to miscellaneous committees do not qualify for tax credits under OAR 150-316.102.
  - (c) "Conversion" means the change in status from a measure committee to a miscellaneous committee.

- (d) "Calendar Year" means that period of time between January 1 through December 31 of a single year.
- (e) "Transferable Funds" are all the funds a measure committee has on hand on December 31st of the year prior to the calendar year when the conversion is made and those contributions received from contributors, not eligible for tax credit, during the conversion year.
- (f) "Non-Transferable Funds" are all the contributions received during the calendar year that the measure committee converts to a miscellaneous committee that are received from contributors eligible for the tax credit.
- (3) A measure committee's transferable funds may be transferred to a miscellaneous committee without consequence to the committee, or to the contributor.
- (4) Before converting to a miscellaneous committee the measure committee must either:
  - (a) Expend all non-transferable funds in accordance with OAR 165-012-0005; or
  - (b) Refund all non-transferable funds to the original contributor.
- (5) A measure committee that converts to a miscellaneous committee and does not disperse funds in accordance with this rule may be subject to a civil penalty under OAR 165-012-0180.

Stat. Auth.: ORS 246.120, 246.150, 260.005 - 260.232 & 316.102

Stats. Implemented: ORS 246.120, 246.150 & 260.005 - 260.232

Hist.: ELECT 12-1997(Temp), f. & cert. ef. 10-27-97

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**Oregon Administrative Rules  
1998 Compilation**

**SECRETARY OF STATE, ELECTIONS DIVISION**

**DIVISION 13**

**ELECTION OFFENSES**

**165-013-0040**

**Interpretation of ORS 260.522**

(1) Definitions:

- (a) The terms "candidate", "measure", "person" and "political committee" used in this rule have the meanings assigned to them by ORS 260.005;
- (b) "Election" means a regularly scheduled election, or a special election after it has been scheduled by the appropriate elections official or by the Legislative Assembly.

(2) Purpose of Rule: The purpose of this rule is to interpret the requirements of ORS 260.522, which requires certain identification on written, audio and visual materials related to an election, or relating to measures or candidates at an election.

(3) Identification Requirements:

- (a) All written, audio or visual material of any type must contain the identification required by ORS 260.522. This includes, but is not limited to, billboards, brochures, flyers, stationary, bumper stickers, lawn signs, campaign buttons, and advertisements, both written and broadcast;
- (b) The identification must be located on at least one place on the written material, or spoken or shown on audio and visual material, and shall substantially follow the examples below:
  - (A) "Authorized by Friends of John Smith PAC, 25 Main Street, Everywhere, Oregon 97000"; or
  - (B) "Authorized by John Smith, 15 Elm Street, Everywhere, Oregon 97000".
- (c) Written material must contain the identification if the material either is related to an election or is related to a candidate or measure at an election. The material need not advocate a position for or against a candidate or measure, or election issues in general, in order for the identification to be required. Even strictly nonpartisan or factual material must contain the identification (except as exempted in this rule). In order to come within the requirements of ORS 260.522

the material must be:

(A) Related to any election; or

(B) Relating to a candidate or measure at an election;

(C) If the written or broadcast material relates to a person who is a candidate, but the material contains no express or implied reference to an election or the person's candidacy, and directly relates to the candidate's career or business, or to the candidate's public office, then the identification is not required.

(d) Media coverage of election issues, including coverage of candidates and measures, need not contain the identification described in ORS 260.522 if the written, audio or visual material is not paid or public service advertising but is strictly news or editorial coverage in the control of the owner and publisher of the media source, and the media source meets the following conditions:

(A) The media source is regularly published or broadcast; and

(B) If the media source is a written publication, the name of the organization, its address, and the name of the publisher or editor is printed on the publication; and

(C) If the media source is a broadcast outlet, that is licensed by the Federal Communications Commission (FCC).

(e) Written and broadcast material relating exclusively to encouraging voter registration or voter turnout which does not advocate or encourage persons to vote in any particular manner at an election, is not considered to be "related to an election" and need not contain the identification required by ORS 260.522, even if the material related to voter registration or voter turnout is published during the period preceding an election.

(4) Sign Exception:

(a) ORS 260.522(3)(a) exempts "signs relating to a candidate if the candidate or the principal campaign committee of the candidate is responsible for the sign and the sign displays the name of the candidate". This exemption only applies to candidates' signs which are the responsibility of the candidate himself or herself, or of the principal campaign committee for the candidate. All other signs, including signs relating to the election generally, or measures, or candidates if the responsible party is not the candidate or the candidate's principal campaign committee, must contain the required identification;

(b) In addition to the requirements identified in section (3) of this rule, to be considered a sign exempt from the identification requirement the written material must be at least 21 square inches in size, and must be a sign designed and used for public display. The following are considered signs (assuming that they are at least 21 square inches in size): Billboards, lawn signs, bumper stickers (designed to be affixed to vehicle bumpers or rear windows), skywriting or banners carried by aircraft. The candidate's name must always be prominently displayed on the sign in order for the sign to qualify for the exemption from the identification requirement.

(5) Political Advertising by Broadcast Media:

(a) Radio broadcasts must meet the identification requirements of ORS 260.522 (orally on the broadcast) as well as the FCC requirements. If the person responsible for a radio broadcast is a candidate or political committee, and the radio broadcast complies with FCC laws and regulations, no address need be given as part of the identification. ORS 260.522(2);

(b) Television broadcasts must meet both the identification requirements of ORS 260.522 as well as the FCC requirements.

Stat. Auth.: ORS 246.150, 260.005 & 260.522

Stats. Implemented: ORS 260.522

Hist.: ELECT 21-1992(Temp), f. & cert. ef. 8-14-92; ELECT 2-1993, f. & cert. ef. 1-13-93

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**Oregon Administrative Rules  
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**SECRETARY OF STATE, ELECTIONS DIVISION**

**DIVISION 14**

**INITIATIVE, REFERENDUM AND RECALL**

**165-014-0005**

**Designating the Initiative, Referendum and Recall Manuals and Forms.**

- (1) ORS 246.150 requires the Secretary of State to adopt rules to facilitate correctness, impartiality and efficiency in administering election laws.
- (2) ORS 250.015 requires that the Secretary of State designate the form of a prospective petition.
- (3) The Secretary of State designates the **1998 State Initiative and Referendum Manual** and associated forms as the procedures and forms to be used for the state initiative and referendum process.
- (4) The Secretary of State designates the **1998 Recall Manual** and associated forms as the procedures and forms to be used for the recall process.
- (5) The Secretary of State designates the **1998 County Initiative and Referendum Manual** and associated forms as the procedures, except where state law permits the procedure to be otherwise under local charter or ordinance, and forms to be used for the county initiative and referendum process.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 264.120, 246.150 & 250.015

Stats. Implemented: ORS 246.120, 246.150 & 250.015

Hist.: SD 120, f. & ef. 12-21-77; SD 7-1979(Temp), f. & ef. 11-5-79; SD 31-1980, f. & ef. 3-6-80; SD 10-1984, f. & ef. 6-19-84; SD 21-1984(Temp), f. & ef. 10-8-84; SD 4-1986, f. & ef. 2-26-86; ELECT 33-1988(Temp), f. & cert. ef. 8-26-88; ELECT 4-1989(Temp), f. & cert. ef. 8-11-89; ELECT 4-1991 (Temp), f. & cert. ef. 3-18-91; ELECT 10-1992(Temp), f. & cert. ef. 4-9-92; ELECT 19-1992(Temp), f. & cert. ef. 7-1-92; ELECT 39-1992, f. & cert. ef. 12-17-92; ELECT 3-1993 (Temp), f. & cert. ef. 1-22-93; ELECT 10-1993, f. & cert. ef. 3-25-93; ELECT 35-1993, f. & cert. ef. 11-1-93; ELECT 1-1996, f. & cert. ef. 1-3-96; ELECT 8-1997, f. & cert. ef. 10-3-97

**165-014-0006**



**Forms SEL 313 and 372**

- (1) ORS 246.120 requires the Secretary of State to prepare and distribute to each county clerk detailed and comprehensive written directives and instructions on elections procedures.
- (2) ORS 246.150 requires the Secretary of State to adopt rules to facilitate correctness, impartiality and efficiency in administering election laws.
- (3) The Secretary of State adopts the following forms to be used as state and local initiative and referendum petition signature sheets when a circulator is being paid: SEL 313 and 372 (ORS 250.045, 250.165, 250.265 and 255.135).

[ED. NOTE: The Forms referenced in this rule are not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.120, 246.150, 250.015, 250.045, 250.165, 250.265 & 255.135

Stats. Implemented: ORS 250.045, 250.165, 250.265 & 255.135

Hist.: ELECT 29-1992(Temp), f. & cert. ef. 9-30-92; ELECT 4-1993(Temp), f. & cert. ef. 1-22-93; ELECT 11-1993, f. & cert. ef. 3-25-93

**165-014-0027**

**Notice of Draft Ballot Title**

- (1) The Secretary of State, Elections Division adopts this rule to specify the means for providing reasonable statewide notice for submitting comments on a draft ballot title.
- (2) The Secretary of State, Elections Division shall give notice of a draft ballot title by general circulation of a press release to the Associated Press, and other Capitol media, and by distribution of the release to the following:
  - (a) The chief petitioners of an initiative or referendum petition for which a ballot title is drafted;
  - (b) Members of the Legislative Assembly; and
  - (c) Any person or organization who wishes to receive copies of all notices of draft ballot titles, or of a specific notice, and who has requested and paid for the Elections Division's subscription service. To begin receiving this service, the person submitting the request shall provide:
    - (A) The name, contact person (if different from the subscribers), mailing address and daytime telephone number of the subscriber;
    - (B) Payment in the amount of \$15 per even-numbered year for a two-year subscription to the initiative and referendum mailing list. The two-year subscription will include the complete text of proposed initiative measures filed with the Secretary of State, Elections Division, opportunity to provide input on the single-subject requirement as it applies to such initiative measures, and notice of draft ballot titles prepared for such initiative measures;
    - (C) A subscriber may cancel a subscription by submitting a written request. A full refund of the subscription price will be provided if the request for cancellation is received by the Elections Division before any subscription information has been sent to the subscriber. After subscription information has been sent, no refunds or credits will be provided;
    - (D) The two-year subscription charge will be prorated for any person who subscribes after the subscription period has begun. The subscription charge will be calculated at the rate of \$0.65 per month or any portion of a month remaining in the subscription period.
- (3) Notice of a draft ballot title shall be mailed not later than the first business day after the day the draft ballot title is

filed with the Secretary of State.

(4) Not later than the first business day after a certified ballot title is filed with the Secretary of State, the secretary shall mail a copy of the certified ballot title to any person who timely submitted written comments on the draft ballot title. The mailing shall include information regarding the final date for filing with the Supreme Court a petition seeking a different title.

Stat. Auth.: ORS 192.440, 246.150 & 250.067

Stats. Implemented: ORS 250.067

Hist.: SD 22-1985, f. & ef. 9-27-85; SD 18-1986, f. & ef. 5-7-86; ELECT 17-1994, f. & cert. ef. 8-25-94

**165-014-0028**

**Review of Proposed Initiative Measures for One-Subject Only Compliance**

(1) The text of a proposed law or a proposed amendment to the Constitution stated in a proposed initiative measure shall be reviewed by the Secretary of State to determine if the proposed law or amendment embraces one subject only and matters properly connected therewith, as required by the provisions of Oregon Constitution, Article IV, Section 1(2)(d).

(2) The Secretary of State shall determine compliance based on the statements contained only in the proposed initiative measure itself.

(3) The Secretary of State shall complete the review of a proposed initiative measure no later than the date the secretary receives the certified ballot title in the secretary's office. Accordingly, all current statutory requirements pertaining to the preparation of a draft ballot title and the preparation of a certified ballot title for a measure shall be followed by the appropriate officials.

(4) The Secretary of State shall distribute to any interested person a copy of the full text of the proposed initiative measure when the secretary receives it for the purpose of preparing a ballot title. The secretary intends to seek statements from interested persons regarding whether or not a proposed initiative measure complies with the one subject only rule of the Oregon Constitution. This material will be sent to the persons identified under ORS 250.067(1) as persons desiring to receive copies of draft ballot titles prepared by the Attorney General. An affidavit of mailing will be prepared by the Secretary of State for this mailing.

(5) The Secretary of State shall notify the chief petitioner(s), in writing, of the results of the secretary's review of a proposed initiative measure for compliance with the one-subject-only rule of the Oregon Constitution. This notice shall state either:

(a) The proposed initiative measure is in compliance with the provisions of Oregon Constitution, Article IV, Section 1(2)(d); or

(b) The proposed initiative measure is not in compliance with the provisions of Oregon Constitution, Article IV, Section 1(2)(d).

(6) The Secretary of State shall not approve for circulation the form of the cover and signature sheet filed by a chief petitioner(s) for a proposed initiative measure that is not in compliance with the one-subject-only rule.

(7) The Secretary of State shall mail to the interested persons that sent statements to the secretary under section (4) of this rule a copy of the notice sent to the chief petitioner(s). An affidavit of mailing will be prepared by the Secretary of State for this mailing.

(8) It is the intention of the Secretary of State that the proceedings specified in this rule are not contested case

proceedings, as defined in ORS Chapter 183; that the notice issued pursuant to section (5) of this rule is an order in other than a contested case. Jurisdiction for judicial review of this order lies in the Marion County Circuit Court, as provided in ORS 183.484 and 246.910.

Stat. Auth.: ORS Ch. 246

Stats. Implemented: ORS 246.150; OR Const §1, Art IV

Hist.: SD 26-1986(Temp), f. & ef. 9-15-86; SD 29-1986, f. & ef. 10-10-86

**165-014-0030**

**Statistical Sampling Procedures for State Petition**

This rule is adopted to implement ORS 250.105(4) and presumes that all requirements for petition filing have been met and that the petition signature sheets, as presented, are accepted for checking. Also, for the purpose of ensuring the uniform and accurate application of this administrative rule, the office of the Secretary of State reserves the right to designate that any petition or part of any petition have all the signatures verified:

- (1) A check is made to ensure that the circulator's verification statement on each signature sheet contains the signature of the circulator. Signature sheets without a circulator's signature on the circulator's verification statement are rejected. Each petition sheet is then checked to see that the signature sheet is attached to a cover sheet as it was when circulated. Those sheets not attached to a cover sheet are rejected. The petition signature sheet are then checked to ensure that the petitioners have separated them into stacks representing individual counties.
- (2) If the petitioners certify upon submission of signatures that the petition contains enough unverified signatures to meet the statutory requirements it is accepted for signature verification. If the petition does not have enough unverified signatures to meet the statutory requirements the petition is rejected. If the petition does have enough unverified signatures to meet the statutory requirements, two signature samples may be taken in order to determine if the petition contains the required number of valid signatures of electors to qualify the petition as a ballot measure.
- (3) The information from the signature sheets will be captured and entered into a computer program as follows: (2 digit) petition I.D. number, (2 digit) county number, (2 digit) page number, (3 digit) petition sheet number, (2 digit) line number, (2 digit) blank or cross out count.
- (4) The sample size of the first and second sample of signatures will be determined by the formula and procedure described in **Appendix 1**. The total number of signatures needed for two samples will determine the number of random signatures to be drawn:
  - (a) A random number generator program will be used to supply a list of random numbers equal in amount to the number of signatures needed for two samples. A "first" sample list will be produced by using a count of random numbers equal to the first sample requirement. However, in all cases the first sample will be at least 1,000 signatures. A "second" sample list will be produced by using the remainder of the random numbers. The "second" sample will contain a count of random numbers greater than the "first" sample list and in an amount equal to or greater than 4,000 signatures. The combined number of signatures to be used in the first and second samples will be at least 5,000 signatures;
  - (b) The "first" and "second" sample list will show the petition identification number, county number, page number, sheet number and sheet line number of each signature selected for verification;
  - (c) The signatures selected on the "first" sampling list will be color coded with a color different than the signatures on the "second" sampling list.
- (5) Using the "first" and "second" random sampling selection lists as the control element the appropriate signature sheets are pulled from the county stacks and the selected signatures are hi-lited. If the selected signature line is a blank

or crossed out line, the next line below will be selected. If there are no following lines, the line above will be selected. These changes will be noted on the random sampling selection list.

(6) A "First and Second Sample Summary of Results of Verification", the random sampling selection list and the selected signature sheets are sent to the applicable county.

(7) Upon receipt of the selected signature sheet(s) the county election official will immediately begin checking the signatures of the "first" sample. As soon as all the signatures of the "first" sample are checked the county election official will post these results to the "First Sample Summary of Results of Verification." The county election official will then immediately deliver, fax or call in these results to the Secretary of State.

(8) The Secretary of State will immediately consolidate and crossfoot all delivered, faxed or called in "Summary of Results of Verification" data for the "first" sampling.

(9) The consolidated data from the "first" sample is applied to the sampling formula. If the petition is accepted as a result of the "first" sample the Secretary of State will immediately notify the county elections officials that no further checking is required. If the results of the "first" sample do not qualify the petition a "second" larger sample will be checked for signature verification.

(10) Upon notification by the Secretary of State, the county election official will immediately begin checking the signatures of the "second" sample. As soon as all the signatures of the "second" sample are checked the county election official will post these results to the "Second Sample Summary of Results of Verification." The county election official will then immediately deliver, fax or call in these results to the Secretary of State.

(11) The Secretary of State will immediately consolidate and crossfoot all delivered, faxed or called in "Summary of Results of Verification" data for the "second" sample. The consolidated data from the "second" sample will be combined with the "first" sample and will be applied to the formula to determine if the petition is accepted.

(12) As soon as all signatures have been checked and the results posted to the appropriate "Summary of Results of Verification" the clerk will return the sample signature sheets and result forms to the Secretary of State. If notified by the Secretary of State the county election official may terminate signature checking before all signatures included in a sample have been checked.

(13) If the results of the "first" sample do not qualify the petition the "second" sample data will be added to the "first" sample data and the combined results will be applied to the sampling formula. The formula will show that:

(a) The petition has a sufficient number of valid signatures;

(b) The petition does not have a sufficient number of valid signatures.

[ED NOTE: The Appendix referenced in this rule is not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.150 & 250.105

Stats. Implemented: ORS 250.105(4)

Hist.: SD 4-1978(Temp), f. & ef. 7-6-78; SD 2-1979, f. & ef. 4-23-79; SD 20-1986, f. & ef. 5-23-86; ELECT 12-1994, f. & cert. ef. 6-23-94

### **Withdrawal of Prospective Initiative or Referendum Petition**

**165-014-0080**

**Purpose and Definitions**

- (1) The purpose of this rule is to provide a procedure to allow the chief petitioners of certain state initiative or referendum measures to withdraw their prospective petitions by giving written notice to the Secretary of State before a ballot title has become certified.
- (2) As used in this rule:
  - (a) "Measure" means any of the following submitted to the people for their approval or rejection at an election:
    - (A) A proposed law;
    - (B) An act or part of an act of the Legislative Assembly;
    - (C) A revision of or amendment to the Oregon Constitution.
  - (b) "Prospective Petition" means the informa-tion, except signatures and other identification of petition signers, required to be contained in a completed petition;
  - (c) "Chief Petitioners" means the person or persons, up to a maximum of three people, designated as such on the prospective petition.

Stat. Auth.: ORS 246.150, 250.067 & 250.085

Stats. Implemented: ORS 246.150

Hist.: ELECT 30-1990(Temp), f. & cert. ef. 7-23-90; ELECT 34-1990, f. & cert. ef. 9-14-90

**165-014-0085**

**Procedure for Withdrawal of Prospective Petition**

- (1) The chief petitioners may, within the time limitations established in this rule, withdraw a prospective petition for an initiative or referendum measure on file with the Secretary of State by providing written notice to the Secretary of State.
- (2) The written notice must notify the Secretary of State of the chief petitioner's intention to withdraw the prospective petition and contain the signatures of all chief petitioners who signed the prospective petition.

Stat. Auth.: ORS 246.150, 250.067 & 250.085

Stats. Implemented: ORS 246.150

Hist.: ELECT 30-1990(Temp), f. & cert. ef. 7-23-90; ELECT 34-1990, f. & cert. ef. 9-14-90

**165-014-0090**

**Time for Withdrawal of Prospective Petition**

The written notice of withdrawal shall be filed with the Secretary of State no later than the day the draft ballot title becomes certified, which date is either:

- (1) The day the draft ballot title is certified by the Attorney General after the expiration of the period for challenge under ORS 250.067.

(2) The day the ballot title is certified by the Supreme Court under the provisions of ORS 250.085.

Stat. Auth.: ORS 246.150, 250.067 & 250.085

Stats. Implemented: ORS 246.150, 250.067 & 250.085

Hist.: ELECT 30-1990(Temp), f. & cert. ef. 7-23-90; ELECT 34-1990, f. & cert. ef. 9-14-90

**Statistical Sampling for Local Petitions**

**165-014-0110**

**Purpose**

This rule applies to any statistical sampling of initiative, referendum or recall petitions relating to counties, cities or districts. The rule designates a statistical sampling technique to be used in determining whether a petition contains the required number of signatures of electors for petitions requiring a number of signatures exceeding 4,500.

Stat. Auth.: ORS 246.150 & 250.215

Stats. Implemented: ORS 246.150 & 250.215

Hist.: ELECT 19-1991(Temp), f. & cert. ef. 12-20-91; ELECT 13-1993, f. & cert. ef. 4-16-93

**165-014-0120**

**Application**

- (1) Any county, city or district election official, who is the filing officer for an initiative, referendum or recall petition which requires signatures of more than 4,500 electors, may use the statistical sampling technique provided by this rule. This rule applies only when all requirements for petition filing have been met and the petition signature sheets are accepted for verification.
- (2) The filing officer may determine that any petition or part of any petition shall have all signatures verified. If the election official elects to use a statistical sampling technique to verify the signatures for an entire initiative, referendum or recall petition or any part of the petition, the official shall use the statistical sampling technique provided in this rule.
- (3) A petition shall be accepted if the results of the first signatures sampling shows there are enough valid signatures. If the first sampling results show the petition has an insufficient number of signatures a second larger sample must be taken. If the two separate samplings of signatures added together show the petition contains less than the required number of signatures, the filing officer shall reject the petition. If the combined samplings show that the petition contains the required number of signatures, the filing officer shall accept the petition.

Stat. Auth.: ORS 246.150 & 250.215

Stats. Implemented: ORS 246.150 & 250.215

Hist.: ELECT 19-1991(Temp), f. & cert. ef. 12-20-91; ELECT 13-1993, f. & cert. ef. 4-16-93

**165-014-0130**

**Reception and Pre-Audit**

- (1) The petition, containing at least 100 percent of the required number of signatures, is filed with the filing officer for signature verification.
- (2) The filing officer checks each petition sheet to see that the signature sheet is attached to a cover sheet as it was when circulated. Those sheets not attached to a cover sheet are rejected.
- (3) Each sheet is checked for the presence of a circulator's signature. Signature sheets without a circulator's signature are rejected.
- (4) Count the total number of signatures submitted to determine whether the number of unverified signatures that have been submitted is greater than the required number of signatures. If there is an insufficient number submitted, then stop the signature checking process, reject the petition and notify the petition's chief petitioner(s).

Stat. Auth.: ORS 246.150 & 250.215

Stats. Implemented: ORS 246.150 & 250.215

Hist.: ELECT 19-1991(Temp), f. & cert. ef. 12-20-91; ELECT 13-1993, f. & cert. ef. 4-16-93

**165-014-0140**

**Setting Sample Size for First Sample**

If a sufficient number of unverified signatures have been submitted, set the size of the first sample at 1,000. The filing officer may select a larger sample to increase the likelihood of acceptance on the basis of the first sample.

Stat. Auth.: ORS 246.150 & 250.215

Stats. Implemented: ORS 246.150 & 250.215

Hist.: ELECT 19-1991(Temp), f. & cert. ef. 12-20-91; ELECT 13-1993, f. & cert. ef. 4-16-93

**165-014-0150**

**Create Random Numbers**

- (1) Generate a list of random numbers, using automated or manual techniques, equal to the number required in the first sample.
- (2) Sort the random numbers in an ascending numerical sequence.

Stat. Auth.: ORS 246.150 & 250.215

Stats. Implemented: ORS 246.150 & 250.215

Hist.: ELECT 19-1991(Temp), f. & cert. ef. 12-20-91; ELECT 13-1993, f. & cert. ef. 4-16-93

**165-014-0160**

Select First Sample

- (1) Start at the beginning of the petition and count signatures up to the value of the first random number. Mark with a high-lighter type pen that signatures line.
- (2) Continue from the first selected signature by counting signatures up to the value of the next random number. High-light that signature line.
- (3) Continue the above process for the remaining random numbers in the first sample.
- (4) Once all randomly selected signatures on a page have been high-lighted, verify the sampled signatures on that page using the county's voter registration file.
- (5) When all signatures from the first sample have been checked, post the results on a Summary of Results of Verification Form.

[ED. NOTE: The Form referenced in this rule is not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.150 & 250.215

Stats. Implemented: ORS 246.150 & 250.215

Hist.: ELECT 19-1991(Temp), f. & cert. ef. 12-20-91; ELECT 13-1993, f. & cert. ef. 4-16-93

165-014-0170

Determine the Sampling Results

To determine the results of the first sample, perform the following calculations:

- (1) Determine the number of valid signatures ( $m_1$ ) in the sample.
- (2) Calculate the proportion of valid signatures in the sample ( $p_1$ ) by dividing the number of valid signatures in the sample ( $m_1$ ) by the total number of signatures in the sample ( $n_1$ ).

$$p_1 = m_1 / n_1$$

- (3) Estimate the number of valid signatures in the petition ( $M_1$ ). This is done by taking the proportion of good signatures in the sample ( $p_1$ ), subtracting a two percent (.02) duplicate signature factor (D), and multiplying that by the number of signatures submitted in the petition (N).

$$M_1 = (p_1 - D)N$$

- (4) Calculate an acceptance limit ( $L_1$ ) as shown in **Table 1**. Compare the estimate,  $M_1$ , to the acceptance limit,  $L_1$ . If  $M_1$  is more than  $L_1$ , accept the petition. If  $M_1$  is less than  $L_1$ , a second sample must be taken.



[ED. NOTE: The Table referenced in this rule is not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.150 & 250.215

Stats. Implemented: ORS 246.150 & 250.215

Hist.: ELECT 19-1991(Temp), f. & cert. ef. 12-20-91; ELECT 1-1992(Temp), f. & cert. ef. 1-6-92; ELECT 13-1993, f. & cert. ef. 4-16-93

**165-014-0180**

**Setting Sample Size for Second Sample**

If a second sample is needed calculate the appropriate sample size in the manner set out in **Table 2**. In all cases the sample size for the second sample must be greater than the sample size for the first sample. If the calculated sample size for the second sample is not more than the sample size for the first sample, set the sample size for the second sample at one more than the size of the first sample.

[ED. NOTE: The Table referenced in this rule is not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.150 & 250.215

Stats. Implemented: ORS 246.150 & 250.215

Hist.: ELECT 19-1991(Temp), f. & cert. ef. 12-20-91; ELECT 13-1993, f. & cert. ef. 4-16-93

**165-014-0190**

**Create Random Numbers**

Generate a list of random numbers, using automated or manual techniques, equal to the number required in the second sample. Do not use any random numbers that were previously selected in the first sample. If a random number falls on a signature used in the first sample, go to the next signature not checked in a sample. If a random number falls on the last signature, and it was used in the first sample, go to the beginning of the signature sheet and check the first signature not checked in a sample.

Stat. Auth.: ORS 246.150 & 250.215

Stats. Implemented: ORS 246.150 & 250.215

Hist.: ELECT 19-1991(Temp), f. & cert. ef. 12-20-91, ELECT 1-1929(Temp), f. & cert. ef. 1-6-92; ELECT 13-1993; f. & cert. ef. 4-16-93

**165-014-0200**

**Select Second Sample**

- (1) Start at the front of the petition and count signatures up to the value of the first random number. High-light that signature line in a different color than that used in the first sample. Do not count signatures verified in the first sample.
- (2) Continue from the first selected signature by counting signatures up to the value of the next random number. High-light that signature line.
- (3) Continue the above process for the remaining random numbers in the second sample.

- (4) Once all randomly selected signatures on a page have been high-lighted, verify the sampled signatures on that page using the county's voter registration file.
- (5) When all signatures from the second sample have been checked post the results on a Summary of Results of Verification Form.

[ED. NOTE: The Form referenced in this rule is not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.150 & 250.215

Stats. Implemented: ORS 246.150 & 250.215

Hist.: ELECT 19-1991(Temp), f. & cert. ef. 12-20-91; ELECT 13-1993, f. & cert. ef. 4-16-93

**165-014-0210**

**Determining the Sampling Results**

To determine the results of the second sample, perform the following calculations:

- (1) Determine the number of valid signatures ( $m_2$ ) in the second sample.
- (2) Calculate the proportion of valid signatures in the combined samples ( $p_2$ ) by dividing the number of valid signatures in both samples ( $m_1 + m_2$ ) by the total number of signatures in the both samples ( $n_1 + n_2$ ).

$$p_2 = (m_1 + m_2) / (n_1 + n_2)$$

- (3) Estimate the number of valid signatures in the petition ( $M_2$ ). This is done by taking the overall proportion of good signatures in both samples ( $p_2$ ), subtracting a two percent (.02) duplicate signature factor ( $D$ ), and multiplying that by the number of signatures submitted in the petition ( $N$ ).

$$M_2 = (p_2 - D)N$$

- (4) Calculate a rejection limit ( $L_2$ ) as shown in **Table 1**. Compare the estimate ( $M_2$ ) to the rejection limit,  $L_2$ . If  $M_2$  is less than the rejection limit,  $L_2$ , reject the petition. If  $M_2$  is more than the rejection limit  $L_2$ , accept the petition.
- (5) Notify the chief petitioner(s) of your determination.
- (6) The following is an example of a calculation to determine the size of the second sample:
  - (a) Start a worksheet with the constants and variables filled in like this:

$$Z = 1.645$$

a

$Z_b = 2.326$

$D = .02$

$p_1 = .82$  (This indicates a filing officer estimates that 82% of the signatures are valid. If the estimate is 82%, write .82. Be conservative in your estimate.)

$F = .95$

$R = 7093$

$N = 8000$

(b) When you see a symbol with a subscript, the subscript indicates first or second sample. For example, the symbol  $n_1$  refers to the first sample size. The symbol  $n_2$  refers to the second sample size. The symbol  $n'$  is a first approximation to the appropriate sample size. The symbol  $n$  refers to the correct value of the sample size, which is calculated by using  $n'$  in the equation for  $n$ . If  $n'$  is less than 10 percent of  $N$ , the value of  $n$  is about the same as  $n'$ .

(c) Solve the first equation for the approximate size of the combined sample.

$Z_b^2 p(1 - p)$

$n' =$

$R^2$

$(1 - F)^2$

$\left( \frac{N}{n'} \right)$

$(2.326)^2 (.82)(.18)$

$n' =$

$7093^2$

$(.05)^2$

$\left( \frac{8000}{n'} \right)$

**(5.41)(.82)(.18)**

**n' = = 407**

**(.8866)<sup>2</sup>(.0025)**

(d) Solve the second equation for the correct size of the combined sample.

**n' 407 407**

**n = = = = 388**

**1 + n' 1 + 407 1.05**

**N 8000**

(e) Solve the third equation for the size of the second sample.

**n<sub>2</sub> = n - n<sub>1</sub> = 388 - 1000 = -612**

(f) But the second sample must be larger than the first sample; therefore, set the second sample at one more than the first.

**n<sub>2</sub> = n<sub>1</sub> + 1 = 1000 + 1 = 1001**

Stat. Auth.: ORS 246.150 & 250.215

Stats. Implemented: ORS 246.150 & 250.215

Hist.: ELECT 19-1991(Temp), f. & cert. ef. 12-20-91; ELECT 1-1992(Temp), f. & cert. ef. 1-6-92; ELECT 13-1993, f. & cert. ef. 4-16-93

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**Oregon Administrative Rules  
1998 Compilation**

**SECRETARY OF STATE, ELECTIONS DIVISION**

**DIVISION 16**

**VOTERS' PAMPHLET**

**165-016-0015**

**Signature Sheet for Petition for Argument for or Against Ballot Measure to be Published in State Voters' Pamphlet**

The Secretary of State hereby designates form SEL 406, revised 12/95, as the required form for filing a petition for argument for or against a ballot measure to be published in the state voters' pamphlet.

[ED. NOTE: The Form referenced in this rule is not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.150 & 251.255

Stats. Implemented: ORS 251.255

Hist.: SD 17-1980, f. & ef. 2-8-80; SD 3-1981(Temp), f. & ef. 8-28-81; SD 8-1981, f. & ef. 10-1-81; ELECT 17-1989(Temp), f. & cert. ef. 10-9-89; ELECT 21-1990, f. & cert. ef. 6-4-90; ELECT 27-1990(Temp), f. & cert. ef. 7-13-90; ELECT 32-1990, f. & cert. ef. 8-16-90; ELECT 9-1994, f. & cert. ef. 5-10-94; ELECT 18-1994, f. & cert. ef. 8-25-94; ELECT 3-1996(Temp), f. & cert. ef. 1-3-96; ELECT 15-1996, f. & cert. ef. 12-19-96; ELCT 15-1996, f. & cert. ef. 12-19-96

**165-016-0020**

**Printing of Voters' Pamphlet**

- (1) 1977 Special Election.
- (2) 1982 General Election.
- (3) 1983 Special Election.

Stat. Auth.: ORS Ch. 246 & 251

Stats. Implemented: ORS 251.165

Hist.: SD 113(Temp), f. & ef. 4-1-77; SD 7-1982(Temp), f. 7-21-82, ef. 10-18-82; SD 10-1982(Temp), f. 10-11-82, ef. 10-11-82 thru 10-18-82; SD 8-1986(Temp), f. & ef. 3-11-86

**Policies and Procedures for Filing and Processing Statements for the State Voter's Pamphlet**

**165-016-0035**

**General**

This administrative rule establishes the policies and procedures to comply with ORS Chapter 251 in contents required for filing and processing candidate statements, measure arguments and statement of arguments by political party or assembly of electors for the state voters' pamphlet.

Stat. Auth.: ORS 251.055

Stats. Implemented: ORS Ch. 251

Hist.: ELECT 28-1990(Temp), f. & cert. ef. 7-13-90; ELECT 33-1990, f. & cert. ef. 8-16-90

**165-016-0040**

**Candidate Filing Statement**

- (1) The candidate's statement of required and optional information must be filed on **Form SEL 430**, revised 12/95, which prescribes the requirements and instructions necessary for filing a statement in the state voters' pamphlet.
- (2) Required information must include:
  - (a) Occupation, meaning the nature of an individual's principal business, whether paid or unpaid;
  - (b) Occupational background, meaning any previous occupations;
  - (c) Educational background, meaning any form(s) of training or teaching;
  - (d) Prior governmental experience, meaning any previous appointed or elected position with a governmental organization, whether paid or unpaid.
- (3) Computer-generated forms may be submitted if the proposed computer-generated forms have the same format as the **SEL 430**. Prior approval from the Secretary of State's Office, Elections Division, must be obtained at least two business days prior to filing a computer-generated form.
- (4) Text changes may be made by the Elections Division either to correct depth problems or to adjust the word count during the publishing process for the state voters' pamphlet.
- (5) A copy of the candidate's original statement or a replacement/substitute statement transmitted by facsimile machine may be accepted.
- (6) Statements shall not be returned to the candidate or the candidate's campaign for proofreading before or after the printing of the voter's pamphlet. The Elections Division shall make every effort to follow any formatting instructions provided by the candidate, but shall not guarantee accuracy.

(7) The individual who signs the statement shall be deemed its author, therefore responsible for its contents.

[ED. NOTE: The Forms referenced in this rule is not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.150 & Ch. 251.065

Stats. Implemented: ORS 251.065

Hist.: ELECT 28-1990(Temp), f. & cert. ef. 7-13-90; ELECT 33-1990, f. & cert. ef. 8-16-90; ELECT 9-1994, f. & cert. ef. 5-10-94; ELECT 3-1996(Temp), f. & cert. ef. 1-3-96;ELECT 15-1996, f. & cert. ef. 12-19-96

**165-016-0045**

**Photographs**

(1) If a candidate desires to provide a photograph when filing a candidate statement, the candidate shall:

- (a) Provide two identical photographs;
  - (b) Identify each photograph on the back upper righthand corner with the candidate's name as it should appear on the ballot and the office for which the candidate has filed;
  - (c) Not provide a caption for the photograph;
  - (d) Photographs may be filed separately from the candidate's statement and fee, however, must be received in the Elections Division not later than 5 p.m. on the filing deadline day;
  - (e) Replacement or substitute photographs may be submitted, however, must be received in the Elections Division not later than 5 p.m. on the filing deadline day:
- (A) The replacement or substitute photograph must be filed using the same specifications as the original photograph;
  - (B) The photograph must indicate it is a replacement or substitute photograph;
  - (C) The date on the replacement photograph must reflect the date the replacement photograph was filed.

(2) A candidate's photograph must be:

- (a) Less than two years old when it is filed;
- (b) A portrait-style 5" x 7";
- (c) Black and white;
- (d) Matte finish (preferable), however, glossy finish shall be accepted;
- (e) Front-facing, showing the face, neck and shoulders only. Hands shall not be shown.

(3) Photographs must not:

- (a) Display anything in the background (this includes, but is not limited to, backdrops, landscaping, paneling, wallpaper, signs);
- (b) Show the candidate wearing clothing which indicates a profession or organization (this includes, but is not limited to, judicial robes, any type of uniform, religious clothing, hats);



- (c) Display any symbols which indicates a profession, organization or belief (this includes, but is not limited to, jewelry in the shape of religious symbols, lapel pins of any organization).
- (4) Photographs which do not meet the above criteria shall be cropped and airbrushed at the candidate's expense.
- (5) The original or any replacement/substitute photographs must be received in the Elections Division not later than 5 p.m. on the filing deadline day; the postmarked date is neither considered nor accepted in rejecting any photographs which are not physically received by this date and time.
- (6) Photographs shall not be returned to the candidate or the candidate's campaign for review before or after printing of the voters' pamphlet. The Elections Division shall make every effort to assure photographs are reproduced as provided by the candidate, however, shall not guarantee the reproduction if cropping or airbrushing is required.

Stat. Auth.: ORS 251.055

Stats. Implemented: OR Laws 1993, Ch. 811, §5

Hist.: ELECT 28-1990(Temp), f. & cert. ef. 7-13-90; ELECT 33-1990, f. & cert. ef. 8-16-90

**165-016-0050**

**Arguments Filed in Support or Opposition to Ballot Measures**

- (1) Any individual or organization may file an argument in support or opposition to a ballot measure. Ballot measure arguments must be filed on form **SEL 405**, revised 12/95, which prescribes the requirements and instructions necessary for filing a measure argument in the state voters' pamphlet.
- (2) Computer-generated forms may be accepted if the proposed computer-generated forms have the same format as the **SEL 405**. Prior approval from the Secretary of State's Office, Elections Division, must be obtained at least two working days prior to filing the computer-generated form.
- (3) Text changes may be made by the Elections Division either to correct depth problems or to adjust the word count during the publishing process for the state voters' pamphlet.
- (4) A copy of the original argument or a replacement/substitute argument transmitted by facsimile machine may be accepted.
- (5) Measure arguments shall not be returned to the individual or organization who filed for proofreading before or after the printing of the state voters' pamphlet.

[ED. NOTE: The Form referenced in this rule is not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.150 & 251.255

Stats. Implemented: ORS 251.255

Hist: ELECT 28-1990(Temp), f. & cert. ef. 7-13-90; ELECT 33-1990, f. & cert. ef. 8-16-90; ELECT 9-1994, f. & cert. ef. 5-10-94; ELECT 3-1996(Temp), f. & cert. ef. 1-3-96; ELECT 15-1996, f. & cert. ef. 12-19-96

**165-016-0055**

**Statement of Arguments By Political Party or Assembly of Electors**

- (1) The managing officers of any statewide or county political party or assembly of electors who have nominated candidates may file, for inclusion in the statewide voters' pamphlet, a statement of arguments for the success of its principles and/or election of its candidates on a statewide or county basis or opposing the principles and/or candidates of other statewide or county political parties or organizations. A statement of arguments must be filed on **Form SEL 420**, revised 12/95, which prescribes the requirements and instructions necessary for filing a statement in the state voters' pamphlet.
- (2) Computer-generated forms may be accepted if the proposed computer-generated forms have the same format as the **SEL 420**. Prior approval from the Secretary of State's Office, Elections Division, must be obtained at least two working days prior to filing the computer-generated form.
- (3) Text changes may be made by the Elections Division either to correct depth problems or to adjust the word count during the publishing process for the state voters' pamphlet.
- (4) A copy of the original or a replacement/ substitute statement of arguments transmitted by facsimile machine may be accepted.
- (5) Statements shall not be returned to the statewide or county political party or assembly of electors for proofreading before or after the printing of the state voters' pamphlet.

[ED. NOTE: The Form referenced in this rule is not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.150 & 251.115

Stats. Implemented: ORS 251.115

Hist.: ELECT 15-1996, f. & cert. ef. 12-19-96

**165-016-0060**

**Statements of Endorsement**

Any name of an individual or organization used in a candidate's optional statement, measure argument or statement of arguments by a statewide political party or assembly of electors must be filed with a statement of endorsement. The Secretary of State designates **Form SEL 400**, revised 12/95, which prescribes the requirements and instructions necessary for filing a statement of endorsement together with a candidate's statement, measure argument or statement of arguments in the state voters' pamphlet.

[ED. NOTE: The Form referenced in this rule is not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.150 & 251.049

Stats. Implemented: ORS 251.049

Hist.: ELECT 28-1990(Temp), f. & cert. ef. 7-13-90; ELECT 33-1990, f. & cert. ef. 8-16-90; ELECT 9-1994, f. & cert. ef. 5-10-94; ELECT 3-1996(Temp), f. & cert. ef. 1-3-96; ELECT 15-1996, f. & cert. ef. 12-19-96

**165-016-0065**

**Format for Statements and Arguments**

- (1) Any candidate's statement, measure argument or statement of arguments filed for inclusion in the state voters' pamphlet shall be submitted on the proper forms.

- (2) The text of all candidate statements shall become public record on the fourth business day after the filing deadline.
- (3) The text of all arguments shall become public record on the fourth business day after the filing deadline.

Stat. Auth.: ORS 246.150 & Ch. 251

Stats. Implemented: OR Laws 1993, Ch. 811, §4 & §11

Hist.: ELECT 28-1990(Temp), f. & cert. ef. 7-13-90; ELECT 33-1990, f. & cert. ef. 8-16-90; ELECT 9-1994, f. & cert. ef. 5-10-94

**165-016-0070**

**Material to be Excluded**

The Secretary of State shall reject any statement, argument or other material filed for publication in the state voters' pamphlet which violates the provisions of ORS 251.055:

- (1) The Secretary of State shall notify any person submitting a statement, argument or other material of any rejection in the following manner:
  - (a) By telephone; or
  - (b) If unable to contact the person by telephone, and if voters' pamphlet timelines permit, by certified mail immediately upon determining a rejection.
- (2) Notification of a rejection shall identify the portion(s) of the statement, argument or other material which are deemed to violate the provisions of ORS 251.055 and shall include a deadline for submitting a revised statement.
- (3) Any person notified by the Secretary of State of any rejection may revise the statement, argument or other material only to the extent necessary to bring the statement into conformance with state statute.
- (4) Any person may submit a revised statement, argument or other material for publication in the state voters' pamphlet provided:
  - (a) The revised statement shall not violate the provisions of ORS 251.055;
  - (b) The revised statement shall be returned to the Secretary of State, Elections Division by the deadline specified in the Secretary of State's notification.
- (5) The revised statement may be submitted by facsimile machine, hand-delivered or mailed.
- (6) If the revised statement is made by telephone, written verification of the revision shall be mailed, submitted by facsimile machine or otherwise delivered to the Secretary of State, Elections Division, confirming the telephone revision; the revised statement must be submitted by the deadline set by the Secretary of State, Elections Division.
- (7) If the Secretary of State is unable to contact any person submitting a statement, argument or other material for publication in the state voters' pamphlet of the rejection of all or part of the statement which is in violation of ORS 251.055, or if the person fails to respond to the Secretary of State's notification, the Secretary of State shall reject the statement, argument or other material in its entirety.

Stat. Auth.: ORS 246.150 & Ch. 251

Stats. Implemented: ORS 251.055

Hist.: ELECT 28-1990(Temp), f. & cert. ef. 7-13-90; ELECT 33-1990, f. & cert. ef. 8-16-90; ELECT 9-1994, f. & cert. ef. 5-10-94

**165-016-0080**

**Notice to Candidate of Need to Revise Statement or Portrait for State Voters' Pamphlet**

- (1) The Secretary of State, Elections Division shall review each candidate's statement and portrait filed for publication in the state voters' pamphlet for compliance with ORS 251.049, 251.075 and 251.085 and contact any candidate whose statement or portrait does not comply.
- (2) For purposes of this rule, "contact" means speaking with any person at any telephone number provided on the voters' pamphlet filing form, or receiving a facsimile machine confirmation report showing a successful transmission to the facsimile number provided on the voters' pamphlet filing form.
- (3) If a candidate's statement or portrait does not comply with provisions of ORS 251.049, 251.075 or 251.085, the Secretary of State, Elections Division shall make up to four attempts to contact the candidate by telephone. If the candidate is contacted by telephone after fewer than four attempts, no further attempts at contact will be made.
- (4) The attempts to contact the candidate by telephone will be made not sooner than the day after the third business day after the deadline for filing candidates' statements, and not later than the fifth business day after the deadline for filing candidates' statements:
  - (a) If necessary, at least one attempt to contact the candidate by telephone shall be made on a business day, in the morning;
  - (b) If necessary, at least one attempt to contact the candidate by telephone shall be made on a business day, in the afternoon.
- (5) If necessary, in addition to the four attempts to contact the candidate by telephone, one attempt shall be made to contact the candidate by facsimile machine if a facsimile machine number has been provided on the candidate's voters' pamphlet filing form.
- (6) An attempt to contact the candidate by facsimile machine shall occur not sooner than the fourth business day after the deadline for filing statements and not later than the fifth business day after the deadline for filing statements.
- (7) Notification of a need for revision shall identify the reason(s) why the statement or portrait fails to comply with applicable statutes.
- (8) A revised statement may be submitted by facsimile machine, hand-delivered or mailed. A revised portrait may be hand-delivered or mailed.
- (9) If the statement is revised by telephone, the Secretary of State, Elections Division may require that a hard (paper) copy of the revised statement, signed by the candidate, shall be submitted to the Secretary of State, Elections Division, to confirm the telephone revision. The revised statement must be submitted not later than the deadline set by ORS 251.087.

Stat. Auth.: ORS 246.150 & 251.087

Stats. Implemented: ORS 251.087

Hist: ELECT 15-1996, f. & cert. ef. 12-19-96

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**Oregon Administrative Rules  
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**SECRETARY OF STATE, ELECTIONS DIVISION**

**DIVISION 18**

**ELECTION BOARDS AND PERSONS WITH PHYSICAL DISABILITIES**

**165-018-0005**

**Designating the Election Board Manual for Election Boards**

- (1) ORS 246.120 requires the Secretary of State to prepare and distribute to each county clerk detailed and comprehensive written directives and instructions on elections procedures.
- (2) ORS 246.150 requires the Secretary of State to adopt rules to facilitate correctness, impartiality and efficiency in administering election laws.
- (3) The Secretary of State designates the **1994 Election Board Manual, pages 1 through 27** as the procedures and guidelines for conducting elections at the polling place.

[ED NOTE: The publication referenced in this rule is not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.120, 246.150, 246.335, 246.420, 253.030(3), 254.056 & 254.435(1)

Stats. Implemented: ORS 246.120 & 246.150

Hist.: SD 120, f. & ef. 12-21-77; SD 32-1980, f. & ef. 3-6-80; SD 11-1984, f. & ef. 6-20-84; ELECT 29-1990, f. & cert. ef. 7-13-90; ELECT 15-1992(Temp), f. & cert. ef. 6-16-92; ELECT 36-1992, f. & cert. ef. 12-15-92; ELECT 32-1993, f. & cert. ef. 9-20-93

**165-018-0010**

**Persons with Physical Disabilities Voting Immediately Outside of Polling Place**

- (1) ORS 246.420 requires the county clerk to designate one polling place per precinct no later than the 10th day before any election. When designating polling places, the county clerk shall take into account the desirability of a polling place to have adequate parking and lighting facilities and be accessible to individuals with physical disabilities.
- (2) Each Election Board shall keep any architectural barrier free entrance to a polling place unlocked during the hours the polls are open. If there is any problem in this regard, the chairman shall immediately contact the county clerk who

shall resolve the problem.

(3) If it becomes necessary for a person with physical disabilities to be issued an official ballot outside the polling place, the following procedures shall be followed:

- (a) The Election Board shall check the poll book to be sure the name of the person with physical disabilities is in the poll book; or, as with other electors, if a certificate of registration is presented, the name of the elector with physical disabilities need not be in the poll book;
  - (b) The name and address of the elector with physical disabilities shall be written on an absentee ballot envelope;
  - (c) The notation "P.D." shall be placed on the outside of the absentee ballot envelope to identify it as having been used for a voter with physical disabilities outside the polling place;
  - (d) One clerk shall take a ballot or ballots to the person with physical disabilities outside the polling place. After properly identifying the person with physical disabilities, in the same manner as if the person were about to sign the poll book or certificate of registration, the clerk will have the person with physical disabilities sign for the ballot on the outside of the absentee ballot envelope. If a certificate of registration is used, it must be signed also;
  - (e) Any assistance given the voter in either signing or voting shall be noted on the envelope and initialed by the clerk;
  - (f) After voting, the elector shall seal the ballot or ballots in the envelope containing the elector's signature. The clerk will return the envelope to the poll;
  - (g) The notation "P.D." and the initials of the Election Board clerk who carried the ballot to the voter, shall be made in the remarks column of the poll book, or on the certificate of registration;
  - (h) Deposit the envelope in the ballot box;
  - (i) After the polls have closed and the ballots are being processed, the absentee envelope will be opened. The "P.D." ballot or ballots will be placed with the other voted ballots and the envelope will be kept with the poll book.
- (4) A person with physical disabilities voting outside the polling place is subject to challenge the same as any other elector. A challenge may be made up to the time the voted ballot is placed in the absentee ballot envelope and the envelope sealed.
- (5) The county clerk shall determine the method by which a voter with physical disabilities will mark a ballot outside the polling place, depending upon the type of voting system used, equipment availability, etc.
- (6) All provisions relating to ballot issuing, voter assistance, voter challenge procedure, etc., shall apply to a person with physical disabilities voting outside the polling place as to any other voter as nearly as practicable, except that only one clerk need offer voter assistance.

Stat. Auth.: ORS 253.030(3) & 254.435(1)

Stats. Implemented: ORS 254.435 & 254.445

Hist.: SD 118(Temp), f. & ef. 10-6-77; SD 119, f. & ef. 11-1-77; ELECT 33B-1990, f. & cert. ef. 8-16-90

## **165-018-0015**

### **Person with Physical Disabilities/Elderly Accessibility to Polling Places**

This rule establishes the minimum guidelines to be used in determining whether facilities used as polling places for

primary and general elections, defined in ORS 254.056, and special congressional elections, held under ORS 188.120, are accessible to voters with physical disabilities or elderly voters pursuant to the Federal "Voting Accessibility for the Elderly and Handicapped Act", Public Law 98-435. The minimum federal accessibility (based on 1986 ANSCE standards) guidelines are as follows:

(1) Parking:

- (a) Unobstructed access (curbless or ramped) from street parking or off-street parking area to building entrance;
- (b) Parking area on a firm, level surface (asphalt or concrete);
- (c) Spaces which are at least eight feet wide with a five feet aisle or, if two spaces are at least eight feet wide, an adjacent aisle of at least five feet may be shared by both parking spaces. Effective September 1, 1990, ORS 447.233 requires public buildings to provide spaces which are at least nine feet wide with an adjacent aisle of at least six feet or, if two spaces are at least nine feet wide, an adjacent aisle of at least six feet may be shared by both parking spaces;
- (d) Spaces which are marked, either permanently or temporarily, with signs in accordance with standards adopted by the Oregon Transportation Commission.

(2) Walkways:

- (a) On firm, level surfaces (asphalt or concrete);
- (b) At least three feet wide;
- (c) Gradual slope which is free of steps (one inch in height for each 20 inches in length).

(3) Ramps:

- (a) At least three feet wide;
- (b) Ten feet in length for every one foot in height;
- (c) Handrails on both sides of ramp if ramp is higher than nine inches;
- (d) Available at walkway, entrance and within the building if polling place is not at entrance level.

(4) Entrance/Doorway:

- (a) Entrance accessible from handicapped parking area;
- (b) Ability of voter to enter building, reach voting area, vote, and leave building without climbing one or more stairs;
- (c) Walks, corridors and aisles shall have 80 inches minimum head room;
- (d) Entrance should be free of obstacles for at least five feet as you approach from either direction;
- (e) Doorways should provide at least 32 inches clear width when open;
- (f) If there are changes of level in the accessible route, the following requirements must be met:
  - (A) 0 inch to 1/4 inch -- No edge treatment required;
  - (B) 1/4 inch to 1/2 inch -- Edge shall be beveled;
  - (C) 1/2 inch or greater -- Must comply with ramp provisions.



- (g) Door which is open or unlocked and easily open during the 13 hours set for voting. Unassisted access door pressure 8.5 pounds or less with looped or levered door hardware.
- (5) Floors free of thick mats, carpets or other covering which makes movement difficult.
- (6) Elevators:
  - (a) Interiors which are at least five feet square;
  - (b) Top controls not more than 48 inches from floor;
  - (c) Tactile markings on control panel next to buttons;
  - (d) Available if polling place is not at entrance level.
- (7) Miscellaneous:
  - (a) Permanent or temporary symbols on building indicating polling place is accessible to electors with physical disabilities or elderly electors. Such symbols shall be located at accessible entrances to building. In a case where accessible entrance is not main entrance to building, directions to accessible entrance shall be posted at main entrance;
  - (b) Each county election office and the Secretary of State shall have available a telecommunication device in the elections office for communication with the hearing impaired;
  - (c) Tables and voting devices to be used by elderly or electors with physical disabilities shall have 29 inches of clearance from floor, with top of table or device not more than 34 inches from floor;
  - (d) Voting instructions shall be posted at each voting station at each polling place. Such instructions shall be printed in 24-point bold type;
  - (e) A number of sample ballots printed for an election shall be printed in 24-point bold type for use, upon request, by the visually impaired. At least one such sample ballot must be posted at each polling place;
  - (f) In lieu of large type instructions and sample ballots required under subsections (7)(d) and (e) of this rule, the county election officer may provide reading aids for use by the visually impaired. At least one such device shall be available at each polling place and in the office of the county election officer;
  - (g) Public notice of availability of voting aids available to electors with physical disabilities and elderly electors shall be published in the statewide primary and general election voters' pamphlets. The notice shall include information regarding availability of instructions, in large-type, to contact county election officers for detailed information concerning the nature of barriers present at polling places designated as inaccessible.

Stat. Auth.: ORS 188.120, 246.420, 253.030, 254.056 & 254.435

Stats. Implemented: ORS 246.420

Hist.: SD 49-1985, f. & ef. 12-30-85; SD 16-1986, f. & ef. 4-24-86; ELECT 33B-1990, f. & cert. ef. 8-16-90; ELECT 2-1992, f. & cert. ef. 1-15-92

## **165-018-0020**

### **Exemption Procedures**

- (1) If the polling place being used and all alternative polling places have been surveyed and it has been determined they cannot be made temporarily accessible, the election officer shall request of the Secretary of State, in writing, the polling

place be exempt from the guidelines set forth in this rule. A separate request shall be submitted for each polling place unable to meet the guidelines set forth herein.

(2) The written request shall:

- (a) Identify the polling place for which the exemption is requested;
- (b) Identify the guideline(s) the polling place cannot meet;
- (c) Describe the efforts made to correct the defect;
- (d) Describe the efforts made in locating a suitable alternative site;
- (e) State alternative voting methods have been made available to elderly electors and electors with physical disabilities of the precinct and, upon advance request by such voter, specify which of the following methods is available:
  - (A) Curbside voting (ORS 254.435(1));
  - (B) Special absentee ballot (ORS 253.030(3)); or
  - (C) Assignment to alternative polling place.
- (f) Include an attached copy of the completed survey form; and
- (g) Include the signature of the election officer making the request.

(3) The county election officer shall notify the Secretary of State, within five days, of a change in the location of a primary or general election polling place for a precinct. Such notification shall be made by filing with the secretary a completed survey for the new polling place, stating the name and location of the polling place no longer being used. If a change in the location of a polling place is due to an emergency, the notification to the secretary shall so state and describe the nature of the emergency:

- (a) Applications for exemption must be made not later than February 15 for the primary election, August 15 for the general election or 60 days prior to a special congressional election;
- (b) If a change in the location of a polling place is due to an emergency, the notification to the secretary shall so state and describe the nature of the emergency. The county election officer shall notify the secretary within two days after the change and no later than the day of the election of the change and include a completed accessibility survey.

(4) The Secretary of State shall confirm, with each county election officer, the locations of each precinct polling place and its status of accessibility to persons with physical disabilities on or before November 1st of each even numbered year. The county election officer shall review the information, correct any errors or changes, and return to the secretary no later than December 1st of each even numbered year.

Stat. Auth.: ORS 253.030(3) & 254.435(1)

Stats. Implemented: ORS 246.420

Hist.: SD 49-1985, f. & ef. 12-30-85; ELECT 33B-1990, f. & cert. ef. 8-16-90

**165-018-0030**

**Election Board Workers Unregistered to Vote**

- (1) The purpose of this rule is to establish standards under which county clerks may employ persons to serve as election board clerks who are not electors of the county, as provided for in ORS 246.310.
- (2) All persons appointed to serve as an election board clerk under this rule must meet the requirements of ORS 246.310(4) with the exception of being an elector of the county.
- (3) Persons appointed shall be at least 16 years of age and a resident of the county.
- (4) No more than one non-elector may be appointed to an election board.
- (5) A non-elector appointed to an election board may serve in any capacity except as chairperson.
- (6) A non-elector between the ages of 16 and 18 years of age must have a valid work permit from the Oregon State Wage and Hour Division. Employers must comply with the requirements of the Oregon Bureau of Labor.

Stat. Auth.: ORS 246.310

Stats. Implemented: ORS 246.310

Hist.: ELECT 11-1991(Temp), f. & cert. ef. 9-27-91; ELECT 3-1992, f. & cert. ef. 1-29-92

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**Oregon Administrative Rules  
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**SECRETARY OF STATE, ELECTIONS DIVISION**

**DIVISION 20**

**SPECIAL DISTRICT ELECTIONS**

**165-020-0005**

**Designating the City and District Elections Manuals and Forms.**

- (1) ORS 246.120 requires the Secretary of State to prepare and distribute to each county clerk detailed and comprehensive written directives and instructions on elections procedures.
- (2) ORS 246.150 requires the Secretary of State to adopt rules to facilitate correctness, impartiality and efficiency in administering election laws.
- (3) The Secretary of State designates the **1998 City Elections Manual** and associated forms as the procedures and forms to be used for city elections processes.
- (4) The Secretary of State designates the **1998 District Elections Manual** and associated forms as the procedures and forms to be used for district elections processes.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 246.120 & 246.150

Stats. Implemented: ORS 246.120 & 246.150

Hist.: SD 33-1980, f. & ef. 3-6-80; SD 47-1980, f. & ef. 10-17-80; SD 12-1984, f. & ef. 6-20-84; SD 40-1985, f. & ef. 11-15-85; SD 12-1986, f. & ef. 4-3-86; ELECT 34-1988(Temp), f. & cert. ef. 8-26-88; ELECT 4-1991(Temp), f. & cert. ef. 3-18-91; ELECT 11-1992(Temp), f. & cert. ef. 4-14-92; ELECT 33-1992, f. & cert. ef. 10-8-92; ELECT 36-1993, f. & cert. ef. 11-1-93; ELEC 1-1996, f. & cert. ef. 1-3-96; ELECT 8-1997, f. & cert. ef. 10-3-97

**165-020-0007**

**Form SEL 704 as Cash/Security Deposit**

The Secretary of State hereby designates Form SEL 704 to comply with ORS 198.775 in contents required in filing a

Cash/ Security Deposit. Form SEL 704 shall be the deposit form and shall contain:

- (1) Name of district to be annexed, formed, withdrawn or dissolved.
- (2) Number of precincts in the district.
- (3) Number of dollars to be charged for each precinct.
- (4) Total deposit amount.
- (5) Oath of the chief petitioners to pay any costs in excess of total deposit.
- (6) Chief petitioners' names, addresses, and phone numbers.
- (7) Names and addresses of any persons or organizations providing any part of cash, bond or other security deposit and the amount of contribution or value of secured deposit.
- (8) Attachment of description of secured deposit(s).
- (9) Attachment of additional contributors.
- (10) Date of chief petitioner's signature.

[ED NOTE: The Forms referenced in this rule are not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 198.775 & 246.150

Stats. Implemented: ORS 198.775

Hist.: SD 4-1984(Temp), f. & ef. 2-9-84; SD 6-1984, f. & ef. 3-19-84; ELECT 24-1993, f. & cert. ef. 6-21-93

**165-020-0008**

**Conducting Special Elections Called Under ORS 255.355**

This rule establishes the procedure for the conduct of special elections called under the provisions of ORS 255.355:

- (1)(a) The provisions of this rule shall apply only when the following conditions exist:
  - (A) A levy has been submitted to and defeated by the electors of a district at an election immediately preceding the special election being called under ORS 255.355;
  - (B) A school closure will occur, has occurred, or will continue as a result of the defeat of the levy; and
  - (C) The proposed measure is the same as, or less than, the levy submitted to the electors of the district at the immediately preceding election.
- (b) If a school closure will occur on or after the 35th day after a notice for a special election is filed with the election officer, the election officer shall comply with all statutes pertinent to the conduct of an election;
- (c) If a school closure will occur before the 35th day after a notice for a special election is filed with the election officer, or if a closure has occurred or will continue as the result of the defeat of a proposed levy, a special election may be called in accordance with the following procedure:
  - (A) The district election authority shall inform the election officer, in writing, of its desire to call a special election. The

district election authority shall state the circumstances leading to the decision to call the special election, including the date of closure and the desired election date;

(B)(i) The election officer, upon receipt of such information, shall prepare a plan for conducting the special election. The plan shall be submitted to the Secretary of State in the form of a schedule of dates, as provided in SED Form 109C, within two working days of receiving from the district election authority information as provided in paragraph (A) of this subsection;

(ii) In addition, the election officer shall inform the Secretary of State of the existing circumstances as stated by the district election authority, as well as, those circumstances relating to the election officer's ability to conduct the election on a specified date.

(C)(i) The Secretary of State shall review the election officer's plan based on the criterion of maximum compliance with ordinary statutory requirements within the abbreviated time frame, considering the date of school closure. The secretary will respond to the officer within two working days of receiving the officer's plan;

(ii) If the plan meets the criterion of this rule, the Secretary of State will instruct the election officer to proceed with the special election under the officer's plan;

(iii) If the plan does not meet the criterion of this rule, the Secretary of State shall amend the plan and instruct the election officer to proceed with the election under the amended plan.

(2) A special election called under ORS 255.355(2) that does not meet the three conditions cited in section (1) of this rule shall be held *not* sooner than the 34th day after notice of the special election is filed with the election officer.

[ED NOTE: The Forms referenced in this rule are not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS Ch. 246

Stats. Implemented: ORS 255.355

Hist.: SD 27-1985(Temp), f. & ef. 11-6-85; SD 46-1985, f. & ef. 12-3-85

**Forms**

**165-020-0020**

**Notice of Election of Board Members for Special Districts**

The Secretary of State hereby adopts by reference and designates SEL 815, as revised to comply with ORS 255.075 in contents required in filing a Notice of Election of Board Members for Special Districts. SEL 815 shall be the filing form and shall contain:

- (1) Name of district.
- (2) Day of week and date of election.
- (3) Number of open positions on board and title of office.
- (4) Name of district.
- (5) The board positions and term of each.

- (6) Indication that the election will be conducted by mail or at the polls from 7 a.m. to 8 p.m.
- (7) Name of county in which declaration of candidacy or petition of nomination is to be filed.
- (8) Last date for candidate filings.
- (9) Designation of newspaper in which legal notice is to be published.
- (10) Signature of authorized district election authority, title and date signed.

[ED NOTE: The Form referenced in this rule is not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.120, 246.150, 255.055 & 255.075

Stats. Implemented: ORS 255.075

Hist.: SD 13-1980, f. & ef. 2-1-80; ELECT 29-1993, f. & cert. ef. 7-23-93

**165-020-0025**

**Notice of County, City and District Measure Election**

The Secretary of State hereby designates forms SEL 801, 802, 803 and 804, as revised, to comply with ORS 255.085 in contents required in filing a Notice of Measure Election for a County, City or District Election. SEL 801 shall be the filing form for a Notice of County Measure Election, SEL 802 shall be the filing form for a Notice of City Measure Election, SEL 803 shall be the filing form for a Notice of District Measure Election and SEL 804 shall be the filing form for a Notice of Tax Levy Measure Election. These forms shall contain the following information:

- (1) Name of county, city, district, or unit of local government.
- (2) Day of week and date of election and name of county, city or district in which election will be held.
- (3) Indication that the election will be conducted by mail or at the polls from 7 a.m. to 8 p.m.
- (4) Ballot title consisting of:
  - (a) 10-word Caption;
  - (b) 20-word Question;
  - (c) Summary:
    - (A) For measure authorizing tax levy or establishing new tax base: Concise and impartial statement of not more than 175 words, explaining chief purpose of the measure and giving reasons for the measure. ORS 310.390. Additional statement required by ORS 310.395 shall not be included in word count;
    - (B) For any other measure: Concise and impartial statement of not more than 85 words, summarizing the measure and its major effect. Content meets requirements of ORS 250.035, 250.039 and 250.041.
- (5) Signature of authorized county, city or district official, title and date signed.
- (6) For measure authorizing tax levy, certification by authorized local government official that the local government unit has complied with the requirements of ORS 310.180 to 310.188 and either ORS 310.186(1) or (2), as applicable.

[ED NOTE: The Forms referenced in this rule are not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.150 & 310.188

Stats. Implemented: ORS 255.085 & 310.188

Hist.: SD 11-1980, f. & ef. 2-1-80; SD 45-1980, f. 9-12-80, ef. 9-15-80; SD 14-1981, f. & ef. 11-2-81; SD 19-1983(Temp), f. & ef. 11-4-83; SD 30-1983, f. & ef. 12-20-83; SD 41-1985, f. & ef. 11-19-85; ELECT 12-1988(Temp), f. & cert. ef. 1-13-88; ELECT 29-1993, f. & cert. ef. 7-23-93; ELECT 1-1994, f & cert. ef. 1-6-94

**165-020-0030**

**Designation of Identification Numbers for Measures of Special Districts Located in More Than One County**

- (1) ORS 246.150 requires the Secretary of State to adopt rules to facilitate correctness, impartiality and efficiency in administering elections laws. ORS 255.195(2) directs the Secretary of State to provide a means of numbering a measure of a special district located in more than one county.
- (2) Measures of special districts located in more than one county shall be numbered consecutively in the order in which the measures are filed with the district's election officer. These measures shall be identified by a unique prefix number. This prefix number shall be assigned by the special district's election officer. For the purpose of this rule, and as provided by ORS 255.005(5)(b), the election officer shall be the county clerk of the county in which the administrative office of the district is located.
- (3) The following are the unique prefix numbers which shall be assigned by the special district election officer:
- (a) Baker -- 1;
  - (b) Benton -- 2;
  - (c) Clackamas -- 3;
  - (d) Clatsop -- 4;
  - (e) Columbia -- 5;
  - (f) Coos -- 6;
  - (g) Crook -- 7;
  - (h) Curry -- 8;
  - (i) Deschutes -- 9;
  - (j) Douglas -- 10;
  - (k) Gilliam -- 11;
  - (l) Grant -- 12;
  - (m) Harney -- 13;
  - (n) Hood River -- 14;
  - (o) Jackson -- 15;
  - (p) Jefferson -- 16;



(q) Josephine -- 17;

(r) Klamath -- 18;

(s) Lake -- 19;

(t) Lane -- 20;

(u) Lincoln -- 21;

(v) Linn -- 22;

(w) Malheur -- 23;

(x) Marion -- 24;

(y) Morrow -- 25;

(z) Multnomah -- 26;

(aa) Polk -- 27;

(bb) Sherman -- 28;

(cc) Tillamook -- 29;

(dd) Umatilla -- 30;

(ee) Union -- 31;

(ff) Wallowa -- 32;

(gg) Wasco -- 33;

(hh) Washington -- 34;

(ii) Wheeler -- 35;

(jj) Yamhill -- 36.

(4) The election officer for a special district located in more than one county shall immediately certify a measure to the appropriate county clerk(s).

Stat. Auth.: ORS Ch. 246

Stats. Implemented: ORS 246.150

Hist.: SD 38-1980(Temp), f. & ef. 3-17-80; SD 1-1981, f. & ef. 7-21-81

**Nomination of a Candidate to Fill Vacancy as Board Member of a District Defined in ORS 255.012, When  
Candidate Could not be Nominated Pursuant to ORS Chapter 255**

**165-020-0035**

**General**

- (1) It is the purpose of this rule to provide a nominating schedule for candidates' names to be printed on the official district election ballot to fill the remainder of an unexpired term resulting from a vacancy in the office of an elected board member.
- (2) This rule shall apply only when a vacancy in the office of an elected board member occurs after the final day for publishing notice of the district election pursuant to ORS 255.075, and more than 20 days prior to the district election as required by the Oregon Constitution, Article V, Section 16.
- (3) Candidates shall file for election in accordance with ORS 255.235(1)(a) and (b).
- (4) Candidate filings shall be accepted during a period of not less than ten calendar days after written confirmation of the vacancy in the office of a board member is filed with the election officer in accordance with this rule. However, the last day for a candidate to file with an election officer shall be not less than ten calendar days prior to the district election.
- (5) The office title only shall be printed on the ballot in those cases when no nominations are received by the election officer.

Stat. Auth.: ORS Ch. 246 & 255

Stats. Implemented: ORS 255.245

Hist.: SD 2-1978(Temp), f. & ef. 2-28-78; SD 1-1979, f. & ef. 1-18-79; SD 2-1984, f. & ef. 1-19-84

**165-020-0040**

**Definitions**

As used in this rule, unless the context requires otherwise, "district election", "district election authority", and "election officer", have the meaning given the terms by ORS 255.005 (3), (4), and (5); "district clerk" shall be the person authorized to handle election matters for the district.

Stat. Auth.: ORS Ch. 246 & 255

Stats. Implemented: ORS 255.005

Hist.: SD 2-1978(Temp), f. & ef. 2-28-78; SD 1-1979, f. & ef. 1-18-79; SD 2-1984, f. & ef. 1-19-84

**165-020-0045**

**Responsibility and Action**

- (1) District Clerk: Notify the election officer immediately that there is a vacancy.
- (2) Election Officer: Determine the deadline date and time for candidate filing in accordance with the general provisions of this rule.
- (3) District Clerk:

- (a) Prepare a written confirmation of vacancy stating the office information, including the position or zone and expiration date of the term, for the office in which the vacancy exists;
  - (b) File the written confirmation with the election officer the next working day following the initial notification given the election officer of the vacancy.
- (4) Election Officer:
- (a) Publish amended notice of director election, stating:
    - (A) All the information contained in the original published notice, including the same filing deadline date and time, for the office(s) originally scheduled for election;
    - (B) The new office information for the office in which the vacancy exists; and
    - (C) The filing deadline date and time, as determined by the election officer, for the office in which the vacancy exists.
  - (b) Receive nominations of candidates for election as a member of the district board;
  - (c) Prepare the official district election ballot to show the office titles and candidates' names, when available, for those offices regularly scheduled for election and those offices scheduled for election as a result of a vacancy in office;
  - (d) Amend absentee ballots, when appropriate, to provide complete ballots for absentee electors.

Stat. Auth.: ORS Ch. 246 & 255

Stats. Implemented: ORS 255.245

Hist.: SD 2-1978(Temp), f. & ef. 2-28-78; SD 1-1979, f. & ef. 1-18-79; SD 2-1984, f. & ef. 1-19-84

**Billing for Local Elections**

**165-020-0050**

**Purpose**

- (1) This rule provides a uniform billing system for state, county, city and special district elections as authorized under ORS 246.179, 254.046, and 255.305:
- (a) All chargeable costs incurred by the county election officer for the conduct of an election held for the state on a date other than the primary or general election, shall be paid by the state, if provided by the act calling for the election or pursuant to ORS 246.179;
  - (b) All chargeable costs incurred by the county election officer for the conduct of an election held for a city on a date other than the primary or general election, shall be paid by the city;
  - (c) All chargeable costs incurred by the county election officer for the conduct of an election held for a special district shall be paid by the special district.
- (2) An "Election Equipment Amortization Worksheet" (SED Form 240), "Average Ballots Cast Worksheet" (SED Form 241), "Allocated Cost Worksheet" (SED Form 242), and "Local Elections Billing Worksheet" (SED Form 243) are attached and made a part of this rule and shall be used to detail all costs to be billed to each electoral district holding an

election.

(3) Any chargeable cost billed for an election shall be supported by such documentation as copies of payroll registers, invoices, vouchers, sales slips, billings, and receipts. Any cost not specified in this rule, or any unsupported chargeable cost, need not be paid.

(4) Documentation will be provided to the electoral districts upon request.

(5) Any electoral district bills and supporting documentation shall be subject to audit by the secretary of state at any time for the purpose of verifying the accuracy of the chargeable costs.

[ED NOTE: The Forms referenced in this rule are not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.179, 254.046 & 255.305

Stats. Implemented: ORS 246.179, 251.365, 254.046 & 255.305

Hist.: SD 40-1980, f. & ef. 4-2-80; SD 16-1984, f. & ef. 9-5-84; ELECT 2-1990(Temp), f. & cert. ef. 1-19-90; ELECT 22-1990, f. & cert. ef. 6-4-90

**165-020-0055**

**Definition of Terms**

- (1) "Adjustment Cost". A value which occurs when the voter registration of a district which did not have an excess credit is multiplied by the adjustment cost per elector.
- (2) "Adjustment Cost Per Elector". A unit charge derived by dividing the total excess credit by the adjustment registration.
- (3) "Adjustment Registration". The total aggregate registration minus the registration of those districts which have an excess credit.
- (4) "Aggregate Registration". The total number of electors from all participating electoral districts within a county.
- (5) "Allocated Cost". The total of all costs on the "Allocated Cost Worksheet" (SED Form 242) incurred by the county election officer for a given election.
- (6) "Allocated Cost Per Elector". A unit charge determined by dividing the allocated cost by the aggregate registration.
- (7) "Amortization". The allocation of a cost of an asset over its estimated economic life:
  - (a) "Estimated Economic Life". The period of time over which the asset will be used. This period of time cannot be longer than the estimated physical life of the asset;
  - (b) "Hardware". The physical equipment used in an information system;
  - (c)"SoftwareorProgram".Thedetailed instructions which direct the hardware functions of an information system;
  - (d) "Hardware Maintenance Agreement". An annual expenditure for the repair or preventative maintenance of the hardware portion of an information system;
  - (e)"SoftwareLicenseorRoyalty".An expenditure for the licensed use of an information system's software.
- (8) "Chargeable Cost". A charge directly associated with and incurred by the county election officer to conduct a given election. Chargeable costs include apportioned costs and dedicated expenditures. Costs associated with a county's voters'

pamphlet shall be considered chargeable costs for local elections. Chargeable cost does not include costs incurred for a city election held on the date of the primary or general election.

(9) "Apportioned Cost". A value which occurs when the district registration is multiplied by the allocated cost per elector.

(10) "Dedicated Expenditure" Any charge associated with and incurred by the county election officer to conduct a given election but specific to one electoral district and not to be shared or apportioned to any other electoral district; such as notice of ballot title.

(11)"ElectionCost".The billing cost for a district election. A value derived by subtracting the adjustment cost from the value in the total chargeable costs minus total revenue column for each district on the "Local Elections Billing Worksheet" (SED Form 243).

(12) "Electoral District". A state, county, city, special district, or other municipal corporation for which the county election officer is required to hold an election.

(13) "Excess Credit". A value which occurs when the total revenue from a district exceeds the total cost for that district election.

(14) "Revenue". The deposits placed on account with the county election officer as provided in ORS 198.775, 261.210, and 607.025 and revenues received from submission of candidate statements and arguments for publication of the county voters' pamphlet.

[ED NOTE: The Forms referenced in this rule are not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.179, 251.365, 254.046 & 255.305

Stats. Implemented: ORS 246.179, 251.365, 254.046 & 255.305

Hist.: SD 40-1980, f. & ef. 4-2-80; SD 16-1984, f. & ef. 9-5-84; ELECT 2-1990(Temp), f. & cert. ef. 1-19-90; ELECT 22-1990, f. & cert. ef. 6-4-90; ELECT 12-1992(Temp), f. & cert. ef. 5-18-92; ELECT 35-1992, f. & cert. ef. 12-15-92

**165-020-0060**

**Computation of Costs**

(1) The Election Equipment Amortization Worksheet (SED Form 240) shall be the form used for calculating the amortization of election equipment.

(2) The total amortization costs billed to electoral districts over the years the election equipment is used cannot exceed the total cost of purchasing, operating and maintaining the equipment during the years the equipment is used.

(3) Amortization of election equipment is not mandatory; however, any county election official who chooses to amortize such equipment must use the method designated by this rule.

(4) The Average Ballots Cast Worksheet (SED Form 241) shall be the form used for computing the average number of ballots cast per election for prior four years.

(5) The Allocated Cost Worksheet (SED Form 242) shall be the form used for computing the allocated cost of the election.

(6) The Local Elections Billing Worksheet (SED Form 243) shall be the form used for computing local election costs.

[ED NOTE: The Forms referenced in this rule are not printed in the OAR Compilation. Copies are available from the Elections Division.]

Stat. Auth.: ORS 246.120, 246.150, 246.179, 246.540, 254.046 & 255.305

Stats. Implemented: ORS 246.120, 246.179, 246.540, 251.365, 254.046 & 255.305

Hist.: SD 40-1980, f. & ef. 4-2-80; SD 16-1984, f. & ef. 9-5-84; ELECT 2-1990(Temp), f. & cert. ef. 1-19-90; ELECT 22-1990, f. & cert. ef. 6-4-90; ELECT 13-1997, f. & cert. ef. 10-27-97

**Adjusting the Terms of Office for Washington County Education Service District Board Members**

**165-020-0300**

**Purpose**

The purpose of this rule is to adjust the terms of office of the board members of Washington County Education Service District, in accordance with ORS 255.335. The Washington County Education Service District population now exceeds 300,000 according to the 1990 federal census. Education service districts with populations in excess of 300,000 must hold regular district elections in each odd-numbered year. This rule is necessary to adjust the terms of the current board members of the district so that the terms are placed on the ballot in the future only in odd-numbered years.

Stat. Auth.: ORS 255.325 & 255.335

Stats. Implemented: ORS 255.325 & 255.335

Hist.: ELECT 16-1992, f. & cert. ef. 6-26-92

**165-020-0310**

**Adjusting the Terms**

- (1) Currently, the terms of office of the board members of the Washington County Education Service District expire as follows:
- (a) Zone 1 -- M. James Doyle -- 6-30-95;
  - (b) Zone 2 -- Gail Young -- 6-30-95;
  - (c) Zone 3 -- Edith Lippert -- 6-30-93;
  - (d) Zone 4 -- Sally Bunnell -- 6-30-94;
  - (e) Zone 5 -- James Doane -- 6-30-92;
  - (f) At Large -- Marilyn McGlasson -- 6-30-93;
  - (g) At Large -- Glenda Jones -- 6-30-94.
- (2) The terms of office of the board members of the Washington County Education Service District are adjusted as follows:
- (a) The terms of the Washington County Education Service District board members Zone 1 and 2 expire June 30, 1995. There is no change to the term for these board positions;

- (b) The term of the Washington County Education Service District board member Zone 3 expires June 30, 1993. There is no change to the term for this board position;
- (c) The term of the Washington County Education Service District board member, Zone 4 expires June 30, 1994. The vacancy on June 30, 1994 will be filled by appointment for a period to expire June 30, 1995. This position will then be filled by election at the regular district election in 1995 for a four year term;
- (d) The term of Washington County Education Service District board member, Zone 5 expires June 30, 1992. The vacancy will be filled by appointment for a period to expire June 30, 1993. The position will then be filled by election at the regular district election in 1993 for a four year term;
- (e) The term of Washington County Education Service District board member At Large, Marilyn McGlasson expires June 30, 1993. There is no change to the term for this board position;
- (f) The term of the Washington County Education Service District board member, Glenda Jones, At Large expires June 30, 1994. The vacancy on June 30, 1994 will be filled by appointment for a period to expire June 30, 1995. This position will then be filled by election at the regular district election in 1995 for a four year term.
- (3) The terms of the Washington County Education Service District board members are adjusted in the manner described above to insure that no term is extended beyond four years and after the 1995 regular district election the board positions will regularly expire on alternate years.

Stat. Auth.: ORS 255.325 & 255.335

Stats. Implemented: ORS 255.325 & 255.335

Hist.: ELECT 16-1992, f. & cert. ef. 6-26-92

**Adjusting the Terms of Office for Blachly School District**

**No. 90 Board Members**

**165-020-0320**

**Purpose**

The purpose of this rule is to adjust the terms of office of the board members of Blachly School District No. 90, in accordance with ORS 255.325, 255.335 and 332.019. Currently the district has three board members' terms expiring in 1996. This rule is necessary to adjust the terms of the current board members of the district so that only two board members' terms expire in 1996. The third board position will be filled by election in 1997 for a new four year term.

Stat. Auth.: ORS 255.325 & 255.335

Stats. Implemented: ORS 255.325 & 255.335

Hist.: ELECT 34-1992, f. & cert. ef. 11-20-92

**165-020-0330**

**Adjusting the Terms**

(1) Currently, the terms of office of the board members of Blachly School District No. 90 expire as follows:

- (a) Zone 1 -- Sanford Rice -- 6-30-94
- (b) Zone 2 -- Ed Underwood -- 6-30-96
- (c) Zone 3 -- Ernie Jacksch -- 6-30-95
- (d) Zone 4 -- Beverly Schiesser -- 6-30-94
- (e) Zone 5 -- Pat Wilcut -- 6-30-96
- (f) At large -- Dana Clay -- 6-30-93
- (G) At large -- Jeff Newman -- 6-30-96

(2) The term of the Blachly School District No. 90 board member Zone 5 expires June 30, 1996. The Zone 5 board position will then become vacant and will be filled by appointment for a one year period which expires June 30, 1997. The Zone 5 position will be filled by election at the regular district election in 1997 for a four year term to expire June 30, 2001.

Stat. Auth.: ORS 255.325 & 255.335

Stats. Implemented: ORS 255.325 & 255.335

Hist.: ELECT 34-1992, f. & cert. ef. 11-20-92

**Adjusting the Terms of Office for Chemeketa Community  
College District Board Members**

**165-020-0340**

**Purpose**

The purpose of this rule is to adjust the terms of office of the board members of Chemeketa Community College District, in accordance with ORS 255.335. The Chemeketa Community College District population now exceeds 300,000 according to the 1990 federal census. Community College districts with populations in excess of 300,000 must hold regular district elections in each odd-numbered year. This rule is necessary to adjust the terms of the current board members of the district so that the terms are placed on the ballot in the future only in odd-numbered years.

Stat. Auth.: ORS 255.325 & 255.335

Stats. Implemented: ORS 255.325 & 255.335

Hist.: ELECT 26-1993, f. & cert. ef. 6-22-93

**165-020-0350**

**Adjusting the Terms**



(1) Currently, the terms of office of the board members of the Chemeketa Community College District expire as follows:

(a) Zone 1 -- Signe Pribnow -- 6-30-95

(b) Zone 2 -- Marilyn Crouser -- 6-30-92

(c) Zone 3 -- Robert Simon -- 6-30-94

(d) Zone 4 -- Wayne E. Feller -- 6-30-92

(e) Zone 5 -- Philip Frey -- 6-30-93

(f) Zone 6 -- Gerald Watson -- 6-30-95

(g) Zone 7 -- Gwen VanDenBosch -- 6-30-94

(2) The terms of office of the board members of the Chemeketa Community College District are adjusted as follows:

(a) The term of the Chemeketa Community College District board member Zone 1 expires June 30, 1995. There is no change to the term for this board position;

(b) The term of the Chemeketa Community College District board member Zone 2 expires June 30, 1992. The vacancy on June 30, 1992 will be filled by appointment for a period to expire June 30, 1993. This position will then be filled by election at the regular district election in 1993 for a four-year term to expire June 30, 1997;

(c) The term of the Chemeketa Community College District board member, Zone 3 expires June 30, 1994. The vacancy on June 30, 1994 will be filled by appointment for a period to expire June 30, 1995. The position will then be filled by election at the regular district election in 1995 for a four-year term;

(d) The term of Chemeketa Community College District board member, Zone 4 expires June 30, 1992. The vacancy on June 30, 1992 will be filled by appointment for a period to expire June 30, 1993. This position will then be filled by election at the regular district election in 1993 for a four-year term to expire June 30, 1997;

(e) The term of Chemeketa Community College District board member, Zone 5 expires June 30, 1993. There is no change to the term for this board position;

(f) The term of the Chemeketa Community College district board member, Zone 6 expires June 30, 1995. There is no change to the term for this board position;

(g) The term of the Chemeketa Community College District board member, Zone 7 expires June 30, 1994. The vacancy on June 30, 1994 will be filled by appointment for a period to expire June 30, 1995. This position will then be filled by election at the regular district election in 1995 for a four-year term to expire June 30, 1999.

(3) The terms of the Chemeketa Community College District board members are adjusted in the manner described above to insure that no term is extended beyond four years and after the 1995 regular district election the positions regularly expire on alternate years.

Stat. Auth.: ORS 255.325 & 255.335

Stats. Implemented: ORS 255.325 & 255.335

Hist.: ELECT 26-1993, f. & cert. ef. 6-22-93

## Adjusting the Terms of Office for Charleston Sanitary

### District Board Members

#### **165-020-0360**

##### **Purpose**

The purpose of this rule is to adjust the terms of office of the Charleston Sanitary District board members, in accordance with ORS 255.325, 255.335 and 450.062. At the March 1993 election four individuals were elected to a four-year term and one was elected to a two-year term (Jim Crooker, Position 5). This rule is necessary to adjust the terms of the board members of the district so that the terms are staggered in order to comply with ORS 255.335 and 450.062.

Stat. Auth.: ORS 255.325, 255.335 & 450.062

Stats. Implemented: ORS 255.325 & 255.335

Hist.: ELECT 37-1993, f. & cert. ef. 11-1-93

#### **165-020-0370**

##### **Adjusting the Terms**

(1) Currently, the terms of office of the board members of the Charleston Sanitary District expire as follows:

- (a) Position 1 -- Sidney Norris -- 6-30-97
- (b) Position 2 -- Gene Skallerud -- 6-30-97
- (c) Position 3 -- Ted Noddin -- 6-30-97
- (d) Position 4 -- Bob Croll -- 6-30-95 (formerly 6-30-97)
- (e) Position 5 -- Jim Crooker -- 6-30-95

(2) The terms of office of the board members of the Charleston Sanitary District are adjusted as follows:

- (a) The terms of the Charleston Sanitary District board member Positions 1, 2 and 3, held by Sidney Norris, Gene Skallerud and Ted Noddin, expires June 30, 1997. There is no change to the terms of office for these board positions;
- (b) The term of the Charleston Sanitary District board member Position 4, held by Bob Croll, expires June 30, 1995 (formerly June 30, 1997). This position will then be filled by election at the regular district election in 1995 for a four-year term;
- (c) The term of the Charleston Sanitary District board member Position 5, held by Jim Crooker, expires June 30, 1995. There is no change to this term of office for this board position. This position will then be filled by election at the regular district election in 1995 for a four-year term.

(3) The terms of the Charleston Sanitary District board members are adjusted in the manner described above to insure that no term is extended beyond four years and after the 1995 regular district election the positions regularly expire on alternate odd-numbered years.

Stat. Auth.: ORS 255.325, 255.335 & 450.062

Stats. Implemented: ORS 255.325 & 255.335

Hist.: ELECT 37-1993, f. & cert. ef. 11-1-93

**Adjusting the Terms of Office for Tillamook Bay Community College District Board Members**

**165-020-0380**

**Purpose**

The purpose of this rule is to adjust the terms of office of the board members of Tillamook Bay Community College District, in accordance with ORS 255.335. This rule is necessary to adjust the terms of the current board members of the district so that only one board member's term expires in 1998, two board members' terms expire in 1996, two board members' terms expire in 1997, and two board members' terms expire in 1999.

Stat. Auth.: ORS 255.325 & 255.335

Stats. Implemented: ORS

Hist.: ELECT 3-1995, f. & cert. ef. 3-10-95

**165-020-0390**

**Adjusting the Terms**

- (1) Currently, the terms of office of the board members of the Tillamook Bay Community College District expire as follows:
- (a) Zone 1 -- Eva Noble -- 6-30-95
  - (b) Zone 2 -- Craig Wakefield -- 6-30-96
  - (c) Zone 3 -- M Wayne Jensen -- 6-30-97
  - (d) Zone 4 -- DW Bill Dahlien -- 6-30-97
  - (e) Zone 5 -- Ann Swan -- 6-30-96
  - (f) Zone 6 -- Dale Walters -- 6-30-96
  - (g) Zone 7 -- Robert Weitman -- 6-30-96
- (2) The terms of office of the board members of the Tillamook Bay Community College District are adjusted as follows:
- (a) The term of the Tillamook Bay Community College District board member Position 1, Zone 1 expires June 30, 1999. There is no change to the term for this board position, since the position is currently slated to be filled by election at the regular district election in 1995 for a four-year term;
  - (b) The term of the Tillamook Bay Community College District board member Position 2, Zone 2 expires June 30, 1996. This position will be filled by election at the regular district election in 1995 for a one-year unexpired term to

expire June 30, 1996;

(c) The term of the Tillamook Bay Community College District board member, Position 3, Zone 3 expires June 30, 1997. There is no change to the term for this board position;

(d) The term of Tillamook Bay Community College District board member, Position 4, Zone 4 expires June 30, 1997. There is no change to the term for this board position;

(e) The term of Tillamook Bay Community College District board member, Position 5, Zone 5 expires June 30, 1998. This position will be filled by election at the regular district election in 1995 for a three-year unexpired term.

(f) The term of the Tillamook Bay Community College District Board member, Position 6, Zone At-Large expires June 30, 1996. There is no change to the term for this board position;

(g) The term of the Tillamook Bay Community College District board member, Position 7, Zone At-Large expires June 30, 1999. This position will thus be filled by election at the regular district election in 1995 for a four year term to expire June 30, 1999.

(3) The terms of the Tillamook Bay Community District board members are adjusted in the manner described above to ensure that no term is extended beyond four years and, after the 1995 regular district election, the positions regularly expire on alternate years.

Stat. Auth.: ORS 255.325 & 255.335

Stats. Implemented: ORS 255.325 & 255.335

Hist.: ELECT 3-1995, f. & cert. ef. 3-10-95

## **165-020-0400**

### **Adjusting the Terms of Office for Dufur Parks and Recreation District Board Members**

(1) The purpose of this rule is to assign position numbers and set the terms of office of the Dufur Parks and Recreation District board members, in accordance with ORS 255.335, 266.325 and 266.335. At the March 1995 election three individuals were elected to a four-year term and one was elected to a two-year term.

(2) The position numbers and expiration dates of the current terms of the board members of the Dufur Parks and Recreation District shall be as follows:

(a) Position 1 -- Glenn Miller -- 6-30-99

(b) Position 2 -- Ken McCullough -- 6-30-99

(c) Position 3 -- Mary Zalaznick -- 6-30-99

(d) Position 4 -- Delores Davidson -- 6-30-97

(e) Position 5 -- Lynne Romaine -- 6-30-97

(3) The terms of office of the board members of the Dufur Parks and Recreation District shall expire as follows:

(a) The terms of the Dufur Parks and Recreation District board members, Positions 1, 2 and 3, expire June 30, 1999. These terms will then be filled by election at the regular district election in 1999 for a four-year term.

- (b) The term of the Dufur Parks and Recreation District board member, Position 4, expires June 30, 1997. This position will then be filled by election at the regular district election in 1997 for a four-year term.
- (c) The term of the Dufur Parks and Recreation District board member, Position 5, expires June 30, 1997. This position will then be filled by election at the regular district election in 1997 for a four-year term.

Stat. Auth.: ORS 246.150, 255.325, 255.335, 266.325 & 266.335

Stats. Implemented: ORS 255.325, 255.335 & 266.335

Hist: ELECT 13-1996, f. & cert. ef. 12-19-96

**165-020-0410**

**Adjusting the Terms of Office for Klamath County Emergency Communications District Board Members**

- (1) The Klamath County Emergency Communications District was formed in February, 1995 after being approved by voters at the November, 1994 election, but the seven elected board members' initial terms were based upon district formation in an even-numbered year instead of an odd-numbered year.
- (2) Currently, the terms of office of the board members of the Klamath County Emergency Communications District expire as follows:
  - (a) Zone 1: June 30, 1998;
  - (b) Zone 2: June 30, 1996;
  - (c) Zone 3: June 30, 1998;
  - (d) Zone 4: June 30, 1996;
  - (e) Zone 5: June 30, 1998;
  - (f) Zone 6: June 30, 1996;
  - (g) Zone 7: June 30, 1996.
- (3) Upon adoption of this administrative rule, the terms of office of the board members of the Klamath County Emergency Communications District expire as follows:
  - (a) Zone 1: June 30, 1999;
  - (b) Zone 2: June 30, 1997;
  - (c) Zone 3: June 30, 1999;
  - (d) Zone 4: June 30, 1997;
  - (e) Zone 5: June 30, 1999;
  - (f) Zone 6: June 30, 1997;
  - (g) Zone 7: June 30, 1997.

Stat. Auth.: ORS 246.150, 255.325 & 255.335

Stats. Implemented: ORS 255.335

Hist.: ELECT 14-1996, f. & cert. ef. 12-19-96

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**SECRETARY OF STATE, ELECTIONS DIVISION**

**DIVISION 21**

**PUBLICATION OF SPECIAL DISTRICT ELECTION NOTICES**

**165-021-0000**

**Purpose and Definition**

(1) The purpose of OAR 165-021-0000 thru 165-021-0010 is:

(a) To establish procedures for maintaining records for the preparation of notices of elections of special district directors; and

(b) To establish procedures for preparing notices of election for publication in a newspaper.

(2) As used in this rule, the terms:

(a) "District" has the same meaning as that given in ORS 255.012.

(b) "Regular district election" means an election at which district officers are elected.

(c) "District clerk" means the person authorized to handle election matters for the district.

(d) "Election officer" has the same meaning as that given in ORS 255.005(5).

Stat. Auth.: ORS Ch. 255

Stats. Implemented: ORS 255.069, 255.075, 255.085 & 255.095

Hist.: SD 25-1983, f. & ef. 12-15-83

**165-021-0005**

**Procedures for Maintaining Records for Preparation of Notice of Election of Special District Directors**

(1) Not later than the 115th day before each regular district election held on a date other than the date of a primary or

general election, the election officer shall deliver to each district clerk, by certified mail, a form for updating information on district directors. If the regular district election is held on the same date as the date of a primary or general election, the election officer shall deliver the form not later than the 135th day before the election. The form may contain all or part of the following information, based on records maintained by the election officer:

- (a) District name;
  - (b) Name, address and telephone number of district clerk;
  - (c) Date of next regular district election;
  - (d) Information as to how district directors are nominated and elected (e.g., nominated by zone, elected at large: Nominated and elected by zone; nominated and elected at large by position number);
  - (e) Names of district directors last known to be in office;
  - (f) Zone or position number of each director;
  - (g) Whether director named is elected or appointed:
    - (A) If director was elected, date of election and length of term to which elected;
    - (B) If director was appointed, date of appointment and name of director replaced by appointee; also, date of last election for the position or zone and length of term to which last elected director was elected.
  - (h) Any other information necessary or helpful to election officer;
  - (i) Signature of district clerk.
- (2) The election officer shall instruct the district clerk to review the information on the form and make additions and corrections as necessary. If the information is correct, the district clerk shall so indicate.
- (3)(a) The district clerk shall, not later than the 105th day before a regular district election held on a date other than the date of a primary or general election, return the completed form to the election officer. If the regular district election is held on the same date as the date of a primary or general election, the district clerk shall return the completed form not later than the 125th day before the election;
- (b) If a vacancy should occur in a district office after the time for returning the completed form, but before the election, the district clerk shall immediately notify the election officer by telephone and in writing.
- (4)(a) The election officer shall prepare the notice required by ORS 255.075(1), using the form completed by the district clerk and any other information available to the election officer. If the form is not returned by a district clerk by the specified time, the election officer shall prepare the notice for the district using the most current information available;
- (b) If the form is returned after the specified time, the election officer shall prepare a corrected notice. The district shall be liable for any additional costs incurred in preparing and publishing a corrected notice.
- (5) The election officer shall retain the completed forms in a file maintained for that purpose. All forms shall be kept for a period of at least four years after the regular district election for which they were completed.
- (6) When a person is appointed to fill a vacancy in a district office, the district clerk shall give written notice to the election officer immediately after such appointment is made.

Stat. Auth.: ORS Ch. 255

Stats. Implemented: ORS 255.069



Hist.: SD 25-1983, f. & ef. 12-15-83

**165-021-0010**

**Procedures for Preparing Notices of Election for Publication in a Newspaper**

(1) Before publishing a notice for a district election, the election officer may designate one newspaper of general circulation in the district for publication of the district's notices. In making the designation, the election officer shall consider the criteria set forth in ORS 193.020.

(2) In addition to the information required in a publication made pursuant to ORS 255.075(1), the election officer shall also include a statement as to where declarations of candidacy and petitions for nomination may be filed.

(3) A publication made pursuant to ORS 255.095(2) must include all ballot and polling place information for the electoral district. A publication made in addition to the publication required by ORS 255.095(2) need only include information pertinent to the county or district for which the publication is made. Further, the requirements of ORS 255.095(2) shall be considered satisfied by publication of the sample ballot as part of publication of the facsimile of the primary or general election sample ballot.

Stat. Auth.: ORS Ch. 255

Stats. Implemented: ORS 255.075 & 255.095

Hist.: SD 25-1983, f. & ef. 12-15-83

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**Oregon Administrative Rules  
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**SECRETARY OF STATE, ELECTIONS DIVISION**

**DIVISION 22**

**COUNTY VOTERS' PAMPHLET**

**165-022-0000**

**Purpose and Definitions**

- (1) The purpose of this rule is to establish the schedule, filing fees and procedures for preparing, printing and distributing a county voters' pamphlet, as outlined in ORS Chapter 251.
- (2) The content of statements and arguments shall conform to ORS 251.395:
  - (a) The names of persons or organizations to be excluded from arguments and statements shall conform to ORS 251.405;
  - (b) Candidate portrait requirements shall conform to ORS 251.075(1), (2), (3) and (4);
  - (c) The format of the candidate's statement shall conform to ORS 251.425;
  - (d) The identification of the candidate's portrait or statement shall conform to ORS 251.125;
  - (e) The preparation and order of materials for the county voters' pamphlet may be organized by electoral jurisdiction in the following order:
    - (A) Measure, explanatory statement and arguments;
    - (B) Candidates.
  - (f) Measure arguments shall follow the relating measure; arguments in support shall be placed first and arguments in opposition shall be placed second and shall be placed in the order the arguments are received by the county clerk;
  - (g) The identification of a measure argument and the disclaimer to be included in the county voters' pamphlet shall conform to ORS 251.355.
- (3) The terms used in this rule have the same definitions as identified in ORS 251.005(1), (3), (4), (5). For this rule, the terms:

- (a) "Statements" refers to the county voters' pamphlet filings made by candidates;
  - (b) "Arguments" refers to the filings of measure arguments for inclusion in the county voters' pamphlet;
  - (c) "Words" refers to both words and numbers;
  - (d) "Filing forms" for candidate statements, explanatory statements and measure arguments refers to the forms required and provided by the county clerk;
  - (e) "City office" means any elected position of a city as specified by state law or city charter.
  - (f) "Local government" means the county or a city, or district as defined in ORS 255.012 located within the county.
- (4) For elected public offices, the terms:
- (a) "Paid office" means any elected public office for which the person elected will receive a fixed salary. For purposes of this rule, per diem and reimbursement for expenses do not constitute a fixed salary;
  - (b) "Unpaid office" means any elected public office which is not a paid office.
- (5) Recall measures may be excluded from the county voters' pamphlet.

Stat. Auth.: ORS 246.150, 251.305 & 251.325

Stats. Implemented: ORS 251.305

Hist.: ELECT 19-1989, f. & cert. ef. 10-16-89; ELECT 6-1991(Temp), f. & cert. ef. 7-2-91; ELECT 8-1991, f. 8-16-91, cert. ef. 9-1-91; ELECT 16-1993, f. & cert. ef. 4-29-93; Renumbered from 165-60-3000; ELECT 6-1994, f. & cert. ef. 3-31-94

## **165-022-0010**

### **Filing Officer and Schedule for Filing Explanatory Statements, Measure Arguments and Candidate Statements**

- (1)(a) If the county in which a local government election is scheduled produces a county voters' pamphlet, the county clerk shall be the filing officer for the candidate statements and arguments which will appear in that county's voters' pamphlet;
  - (b) If a local government is located in more than one county, the county clerk of the county in which the city hall of the city or the administrative office of the local government located shall be the filing officer for the measure and explanatory statement.
- (2) The filing deadlines for candidate statements, portraits, arguments and filing fees shall be based upon the final dates for filing either a nominating petition/declaration of candidacy; notice of measure election or a certified statement of candidates by a local government or the Department of Agriculture:
- (a) For candidates who file their candidacy with the county clerk -- Not later than 5 p.m. on the 68th day before the election for inclusion in a county voters' pamphlet for a primary or general election, except as provided in subsection (d) of this section;
  - (b) For candidates who file their candidacy with the county clerk -- Not later than 5 p.m. on the 57th day before the election for inclusion in a county voters' pamphlet for any election other than a primary or general election, except as provided in subsection (d) of this section;
  - (c) For candidates who file their candidacy with a governing body other than the county clerk -- Not later than 5 p.m. on

- the 57th day before the election for inclusion in a county voters' pamphlet for any election, except as provided in subsection (d) of this section;
- (d) For candidates on any election ballot whose names are certified to a subsequent runoff election ballot for the same office, and where the voters' pamphlet filing deadline for the subsequent runoff election falls on or before the date of the first election -- not later than 5 p.m. on the second business day after the first election for inclusion in a county voter's pamphlet for the subsequent runoff election.
- (e) For local government measures and explanatory statements -- Not later than 5 p.m. on the deadline for filing a notice of measure election;
- (f) For arguments in support or opposition to any measure and filing fee or verified petition -- Not later than after 5 p.m. on the second (2nd) business day after the deadline for filing a notice of measure election;
- (g) For all statements of endorsement -- Not later than the deadline for filing statements and arguments.
- (3) All explanatory statements shall become public record upon filing.
- (4) The text of all candidate statements shall become public record on the fourth (4th) business day after the filing deadline.
- (5) The text of all arguments shall become public record on the fourth (4th) business day after the filing deadline.

Stat. Auth.: ORS 246.150, 251.305 & 251.325

Stats. Implemented: ORS 251.335, 251.345 & 251.355

Hist.: ELECT 19-1989, f. & cert. ef. 10-16-89; ELECT 6-1991(Temp), f. & cert. ef. 7-2-91; ELECT 8-1991, f. 8-16-91, cert. ef. 9-1-91; ELECT 16-1993, f. & cert. ef. 4-29-93; Renumbered from 165-60-3010; ELECT 6-1994, f. & cert. ef. 3-31-94; ELECT 4-1995, f. & cert. ef. 3-10-95

**165-022-0020**

**Filing Fees for Statements and Arguments**

- (1) Filing fees or signature petitions for statements and arguments shall be filed with the county clerk at the time of submitting the arguments or statements.
- (2) A verified signature petition may be substituted for the appropriate filing fee for measure arguments (ORS 251.355). The petition shall be submitted on forms prescribed by the county clerk.
- (3) The filing fees for candidate statements shall be:
- (a) For paid offices -- \$100;
- (b) For unpaid offices -- \$25.
- (4) The filing fees for measure arguments shall be based upon the electoral jurisdiction's registration as of January 1st of the election year:
- (a) If the electoral jurisdiction has a registration of less than 1,000 within a county -- \$75;
- (b) If the electoral jurisdiction has a registration of 1,000 to 4,999 within a county -- \$150;
- (c) If the electoral jurisdiction has a registration of 5,000 to 9,999 within a county -- \$225;

- (d) If the electoral jurisdiction has a registration of 10,000 or more within a county -- \$300.
- (5) Refunds of filing fees shall conform to ORS 251.325(2) and the procedures established by the county clerk.

Stat. Auth.: ORS Ch. 251

Stats. Implemented: ORS 251.325, 251.335 & 251.355

Hist.: ELECT 19-1989, f. & cert. ef. 10-16-89; ELECT 6-1991(Temp), f. & cert. ef. 7-2-91; ELECT 8-1991, f. 8-16-91, cert. ef. 9-1-91; ELECT 16-1993, f. & cert. ef. 4-29-93; Renumbered from 165-60-3020

**165-022-0030**

**Filing Candidate Statement and Portrait**

- (1) Any candidate for local office may file a candidate statement and portrait with each county clerk of the county(ies) in which the local government is located.
- (2) The county clerk may require that the candidate statement be typewritten and submitted on a form approved by the county clerk.
- (3) Candidate statements shall be limited to 325 words.
- (4) Candidate portraits shall be of a size which complies with state statute (ORS 251.075).
- (5) All materials submitted by a candidate for inclusion in a county voters' pamphlet shall fit within 30 square inches of space.

Stat. Auth.: ORS 246.150, 251.305 & 251.325

Stats. Implemented: ORS 251.335

Hist.: ELECT 19-1989, f. & cert. ef. 10-16-89; ELECT 6-1991(Temp), f. & cert. ef. 7-2-91; ELECT 8-1991, f. 8-16-91, cert. ef. 9-1-91; ELECT 16-1993, f. & cert. ef. 4-29-93; Renumbered from 165-60-3030; ELECT 6-1994, f. & cert. ef. 3-31-94

**165-022-0040**

**Filing Explanatory Statements**

- (1) The governing body for any local government which has referred a measure to the voters, shall submit an impartial, simple and understandable statement explaining the measure and its effect.
- (2) For any initiative or referendum by petition, an impartial, simple and understandable statement explaining the measure and its effect shall be submitted by the governing body of the local government only if the local government has an ordinance requiring the submission of such a statement.
- (3) Explanatory statements shall be limited to 500 words.

Stat. Auth.: ORS 246.150, 251.305 & 251.325

Stats. Implemented: ORS 251.345

Hist.: ELECT 19-1989, f. & cert. ef. 10-16-89; ELECT 6-1991(Temp), f. & cert. ef. 7-2-91; ELECT 8-1991, f. 8-16-91, cert. ef. 9-1-91; ELECT 16-1993, f. & cert. ef. 4-29-93; Renumbered from 165-60-3040; ELECT 6-1994, f. & cert. ef. 3-31-94

**165-022-0050**

**Filing Measure Arguments**

- (1) Any person may file an argument supporting or opposing a measure with each county clerk of the county(ies) in which the local government that filed the measure is located if the county(ies) will be publishing a voters' pamphlet.
- (2) The county clerk may require that an argument supporting or opposing a measure be typewritten or legibly printed and submitted on a form approved by the county clerk.
- (3) Arguments shall be limited to 325 words.
- (4) All materials submitted for inclusion in a county voters' pamphlet shall fit within 30 square inches of space.

Stat. Auth.: ORS 246.150, 251.305 & 251.325

Stats. Implemented: ORS 251.355

Hist.: ELECT 19-1989, f. & cert. ef. 10-16-89; ELECT 6-1991(Temp), f. & cert. ef. 7-2-91; ELECT 8-1991, f. 8-16-91, cert. ef. 9-1-91; ELECT 16-1993, f. & cert. ef. 4-29-93; Renumbered from 165-60-3050; ELECT 6-1994, f. & cert. ef. 3-31-94

**165-022-0060**

**Printing and Distributing the County Voter's Pamphlet**

- (1) The county clerk shall print the voters' pamphlet using a format which allows for equal space for every:
  - (a) Argument;
  - (b) Statement and portrait;
  - (c) Candidate portraits which are of a size which complies with state statute (ORS 251.075).
- (2) The county clerk shall be authorized to edit any statements or arguments which do not conform to the allocated space requirements.
- (3) The county clerk shall mail or distribute the county voters' pamphlet by the seventh day before the election or the last day for mailing ballots if the election is conducted by mail.
- (4) The county clerk shall mail or distribute the county voters' pamphlet in such a manner as to ensure at least one voters' pamphlet to each household with a registered voter within any local government that involved in an election.

Stat. Auth.: ORS 246.150, 251.305 & 251.325

Stats. Implemented: ORS 251.325

Hist.: ELECT 19-1989, f. & cert. ef. 10-16-89; ELECT 6-1991(Temp), f. & cert. ef. 7-2-91; ELECT 8-1991, f. 8-16-91, cert. ef. 9-1-91; ELECT 16-1993, f. & cert. ef. 4-29-93; Renumbered from 165-60-3060; ELECT 6-1994, f. & cert. ef. 3-31-94

**165-022-0070**

**Notification Between Electoral Jurisdictions**

- (1) If a local government is located in more than one county, the county clerk with whom the filings are made shall certify, within one business day after the filing deadline, to the county clerk of another county in which the local government is located:
- (a) Copies of all measures;
  - (b) Copies of all explanatory statements;
  - (c) Copies of all candidate filings.
- (2) If a candidate files for office with a filing officer other than a county clerk, the filing officer shall include a copy of such candidate filing when the officer certifies the ballot information to the county clerk.
- (3) If a candidate or measure for a local government which is located in more than one county will appear in more than one county's voters' pamphlet,
- the candidate filing a statement or the person filing an argument is responsible for filing the information and appropriate fee with the other county clerks for inclusion in another county voters' pamphlet.

Stat. Auth.: ORS 246.150, 251.305 & 251.325

Stats. Implemented: ORS 251.325

Hist.: ELECT 19-1989, f. & cert. ef. 10-16-89; ELECT 6-1991(Temp), f. & cert. ef. 7-2-91; ELECT 8-1991, f. 8-16-91, cert. ef. 9-1-91; ELECT 16-1993, f. & cert. ef. 4-29-93; Renumbered from 165-60-3070; ELECT 6-1994, f. & cert. ef. 3-31-94

**165-022-0080**

**Billing Electoral Jurisdictions for County Voters' Pamphlet**

The formula used to determine the apportioned expenditure and revenue allocations for the county voters' pamphlet as related to election costs is outlined in OAR 165-020-0050, 165-020-0055, and 165-020-0060, Billing for Local Elections.

Stat. Auth.: ORS 246.150, 251.305 & 251.325

Stats. Implemented: ORS 251.365

Hist.: ELECT 19-1989, f. & cert. ef. 10-16-89; ELECT 6-1991(Temp), f. & cert. ef. 7-2-91; ELECT 8-1991, f. 8-16-91, cert. ef. 9-1-91; ELECT 16-1993, f. & cert. ef. 4-29-93; Renumbered from 165-60-3080; ELECT 6-1994, f. & cert. ef. 3-31-94

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