

Chapter 165 Secretary of State, Elections Division

DIVISION 1

PROCEDURAL RULES

165-001-0000	Notice of Proposed Rule
165-001-0005	Model Rules of Procedure
165-001-0009	Definitions
165-001-0010	Contested Cases
165-001-0015	Notice of Opportunity for Hearing
165-001-0016	Requesting a Hearing
165-001-0025	Orders When No Hearing Requested or Failure to Appear
165-001-0034	Notarized Testimony in lieu of Hearing
165-001-0035	Conducting Contested Case Hearings
165-001-0036	Employee Representation at Contested Case Hearings
165-001-0040	Evidentiary Rules
165-001-0045	Ex Parte Communications
165-001-0050	Proposed Orders in Contested Cases, Filing of Exceptions, Argument, and Adoption of Order
165-001-0055	Final Orders
165-001-0080	Contested Case Hearings
165-001-0090	HAVA Complaint Procedures

DIVISION 2

GENERAL BUSINESS

165-002-0005	Refunds
165-002-0010	Schedule and Fees for Providing Copies of Public Records
165-002-0020	Schedule and Fees for Providing Statewide and Less Than Statewide Voter List
165-002-0025	Secretary of State as Filing Officer

DIVISION 4

CITY INCORPORATION

165-004-0005	Forms to Petition for Incorporation of a City
165-004-0020	Forms to Petition for Creation of a City Through Consolidation

DIVISION 5

VOTER REGISTRATION

Registration of Naturalized U.S. Citizens

165-005-0050	Registration Procedures for Newly Naturalized Citizens
--------------	--

Agency Registration

165-005-0055	Designating NVRA Voter Registration Agencies
165-005-0060	Collection of Registration Cards
165-005-0065	Compiling and Reporting Registrations
165-005-0070	Agency Registration Procedures
165-005-0080	Request for Delivery and Distribution of Voter Registration Cards
165-005-0130	Residence Address Disclosure Exemption
165-005-0150	Use of Signature Stamp by Disabled Elector
165-005-0160	Electronic Voter Registration System

DIVISION 7

CONDUCT OF ELECTIONS

165-007-0030	Designating the Vote By Mail Manual
165-007-0035	Designating Ballot Request Forms
165-007-0130	Method of Calculating Total Eligible Voters for Property Tax Measure Elections
165-007-0270	Administrative Recounts
165-007-0280	Spanish Language Ballots

165-007-0290	Hand Count of Ballots at General Election
165-007-0300	Facsimile Vote Secret Ballot Waiver Form
165-007-0310	County Elections Security Plan
165-007-0320	Multiple Political Party Designations
165-007-2012	Timelines for the Special Primary and Special Election to Fill a Vacancy in the Office of Representative in Congress, 1st District

DIVISION 8

REAPPORTIONMENT

165-008-0000	Purpose
165-008-0010	Schedule if Legislature Does Not Complete Reapportionment by July 1
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
165-008-0030	Conduct of Public Hearings
165-008-0040	Submission of Evidence or Argument
165-008-0050	Limits on Submission of Evidence, Views and Arguments
165-008-0060	Criteria for Reapportionment

DIVISION 10

CANDIDATES AND POLITICAL PARTIES

165-010-0005	Designating the State Candidate's Manuals, County Candidate's Manual and Forms
165-010-0060	Procedure for Conduct of Meeting to Fill Vacancy in Legislative Assembly
165-010-0070	Filling Vacancy in Nomination of Major Political Party
165-010-0080	Write-In Candidate Acceptance Form (SEL 141)
165-010-0085	Democratic Nominee's Willingness to Serve (SEL 145a) and Republican Nominee's Willingness to Serve (145b)
165-010-0090	Order of Candidate Names on the Ballot
165-010-0110	Filling Vacancy in Nomination to Nonpartisan Office or Vacancy in Nonpartisan Office

DIVISION 12

CAMPAIGN FINANCE REGULATIONS

165-012-0005	Designating the Campaign Finance Manual and Forms; Late Penalty Matrix
165-012-0050	Contribution of Polls, Allocation of Polling Expenses
165-012-0060	Slate Mailer Organizations
165-012-0240	Administrative Discontinuation of a Political Committee

DIVISION 13

ELECTION OFFENSES

165-013-0010	Penalty Matrix for Other Campaign Finance Violations
165-013-0020	Penalty Matrix for Non-Campaign Finance Civil Penalty Election Law Violations

DIVISION 14

INITIATIVE, REFERENDUM AND RECALL

165-014-0005	Designating the Initiative, Referendum and Recall Manuals and Forms
165-014-0028	Review of Proposed Initiative Measures for Procedural Constitutional Compliance

Chapter 165 Secretary of State, Elections Division

- 165-014-0030** Statistical Sampling Procedures for State Petition
165-014-0100 Review of Specified Chief Petitioner Accounts

Statistical Sampling for Local Petitions

- 165-014-0110** Statistical Sampling Procedures for Other than State Initiative or Referendum Petitions
165-014-0260 Prohibition on Paying or Receipt of Payment based on the Number of Signatures Obtained on an Initiative, Referendum, Candidate Nominating Petition or Voter Registration Cards
165-014-0270 Circulator Certification
165-014-0275 Completion of Optional Information on Petition Sheets
165-014-0280 Circulator Training and Registration
165-014-0285 Circulating Unpaid Petitions by Paid Petition Circulators

DIVISION 16

VOTERS' PAMPHLET

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

- 165-016-0040** Candidate Filing Statement
165-016-0045 Photographs
165-016-0050 Arguments Filed in Support or Opposition to Ballot Measures
165-016-0055 Statement of Arguments by Political Party or Assembly of Electors
165-016-0060 Statements of Endorsement
165-016-0070 Material to be Excluded
165-016-0080 Notice to Candidate of Need to Revise Statement or Portrait for State Voters' Pamphlet
165-016-0095 Inclusion Fees for County and Metropolitan Service District Measures

DIVISION 18

ELECTION BOARDS AND PERSONS WITH PHYSICAL DISABILITIES

- 165-018-0005** Designating the Election Board Manual for Election Boards
165-018-0010 Persons with Physical Disabilities Voting Immediately Outside of Polling Place
165-018-0015 Persons with Physical Disabilities/Elderly Accessibility to Polling Places
165-018-0020 Exemption Procedures
165-018-0030 Election Board Workers Unregistered to Vote

DIVISION 20

SPECIAL DISTRICT ELECTIONS

- 165-020-0005** Designating the City and District Elections Manuals and Forms
165-020-0007 Form SEL 704 as Cash/Security Deposit

Forms

- 165-020-0020** Notice of Election of Board Members for Special Districts
165-020-0021 Record Retention for Preparation of Notice of Election of Board Members for Special Districts
165-020-0025 Notice of County, City and District Measure Election
165-020-0030 Designation of Identification Numbers for Measures of Special Districts Located in More than One County

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** Nominating Schedule for Filling Vacancy in Office of Board Member of District

Billing for Local Elections

- 165-020-0050** Purpose
165-020-0055 Definition of Terms
165-020-0060 Computation of Costs

DIVISION 22

COUNTY VOTERS' PAMPHLET

- 165-022-0000** Definitions
165-022-0010 Filing Officer and Schedule for Filing Explanatory Statements, Measure Arguments and Candidate Statements
165-022-0030 Filing Candidate Statement and Portrait
165-022-0040 Filing Explanatory Statements
165-022-0050 Filing Measure Arguments
165-022-0060 Printing and Distributing the County Voter's Pamphlet
165-022-0070 Notification Between Electoral Jurisdictions
165-022-0080 Billing Electoral Jurisdictions for County Voters' Pamphlet

DIVISION 100

PUBLIC OFFICIALS COMPENSATION COMMISSION

- 165-100-0035** Statement of Purpose
165-100-0040 Conducting the Selection of Names by Lot
165-100-0045 Notifying Persons Selected by Lot
165-100-0050 Selecting Candidates for Appointment by Lot
165-100-0055 Term of Appointment
165-100-0060 Appointment to Commission
165-100-0065 Vacancy on Commission

DIVISION 1

PROCEDURAL RULES

165-001-0000 Notice of Proposed Rule

Before adopting, amending or repealing any permanent rule, the Secretary of State, Elections Division will give notice of the intended action:

- (1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date of the rule;
- (2) By mailing, or transmitting by electronic mail a copy of the Statement of Need and Fiscal Impact and the Notice of Proposed Rulemaking, or the Notice of Proposed Rulemaking Hearing, at least 28 days prior to the effective date of the rule, to each person who has requested to be included on the Elections Division's subscription service established pursuant to ORS 183.335(8);
- (3) By mailing, or transmitting by electronic mail a copy of the text of the proposed rule to any person upon request;
- (4) By mailing, or transmitting by electronic mail a copy of the Statement of Need and Fiscal Impact, the Notice of Proposed Rulemaking, or the Notice of Proposed Rulemaking Hearing, and the text of the proposed rule to the following persons or organizations at least 28 days prior to the effective date:
 - (a) County Clerks;
 - (b) The chair or designee of each statewide political party;
 - (c) Members of the Oregon Legislature;
 - (d) The Governor's legal counsel;
 - (e) Attorney General's office;
 - (f) League of Oregon Cities;

- (g) Association of Oregon Counties;
- (h) Oregon Special Districts Association;
- (i) Oregon School Boards Association; and
- (j) Capitol Press Room.

(5) By mailing, or transmitting by electronic mail a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule;

(6) Within 10 business days after the adoption, amendment or repeal of any temporary or permanent administrative rule, the Secretary of State, Elections Division will provide, by mail, or electronic mail a copy of the certificate and order and the text of the adopted rule to each person or organization listed in sections (2) through (5) of this rule and within no later than 10 days to the Legislative Counsel, as required by ORS 183.715.

Stat. Auth.: ORS 183
 Stats. Implemented: ORS 183.335 & 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; ELECT 14-2001, f. & cert. ef. 6-15-01; ELECT 7-2003, f. & cert. ef. 9-3-03; ELECT 7-2005, f. & cert. ef. 12-14-05; ELECT 3-2006, f. & cert. ef. 4-18-06

**165-001-0005
 Model Rules of Procedure**

The Uniform and Model Rules of Procedure, OAR 137-001-0007 through 137-002-0060 as adopted by the Attorney General of the State of Oregon under the Administrative Procedures Act, effective January 1, 2008, are adopted as the rules of procedure for rule-making 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 the Elections Division.]
 Stat. Auth.: ORS 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; ELECT 4-2001, f. & cert. ef. 3-15-01; ELECT 7-2003, f. & cert. ef. 9-3-03; ELECT 2-2005, f. & cert. ef. 3-22-05; ELECT 1-2006, f. & cert. ef. 3-7-06; ELECT 13-2009, f. & cert. ef. 5-22-09

**165-001-0009
 Definitions**

Unless the context requires otherwise, the following definitions apply to this Division:

(1) “Charging document” means any document issued by the Secretary of State, Elections Division stating that any person or government agency has violated the laws or rules within this Agency’s jurisdiction.

(2) “Agency” means Secretary of State, Elections Division and any employee thereof.

Stat. Auth.: ORS 246.150
 Stats. Implemented: ORS 260.232 & 260.995
 Hist.: ELECT 7-2011, f. & cert. ef. 4-8-11

**165-001-0010
 Contested Cases**

(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, corporation, limited liability company, labor organization, 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; ELECT 5-2001, f. & cert. ef. 3-15-01

**165-001-0015
 Notice of Opportunity for Hearing**

When the Secretary of State proposes to impose a civil penalty or find a violation of an election law, or both, under ORS 260.232 or 260.995, the Secretary of State shall cause a notice to be served by regular mail on the person(s) subject to the penalty. The notice shall include:

(1) A statement of the person’s right to a hearing before an Administrative Law Judge with the Office of Administrative Hearings.

(2) A statement that if the person 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 person 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.

(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) A statement that 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 three business days prior to the hearing as provided by 260.232(6).

(11) A statement that unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default.

Stat. Auth.: ORS 183.090, 183.470 & 246.150
 Stats. Implemented: ORS 183.341, 183.470, 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 9-1999, f. & cert. ef. 9-29-99; ELECT 7-2003, f. & cert. ef. 9-3-03; ELECT 19-2009, f. & cert. ef. 12-31-09; ELECT 7-2011, f. & cert. ef. 4-8-11; ELECT 10-2011, f. & cert. ef. 7-12-11

**165-001-0016
 Requesting a Hearing**

(1) If a party wishes to request an in person or telephone hearing to contest the allegations in the charging document, they must submit to the Agency a written response, referred to as an “answer;” to the allegations in the charging document not later than the deadline to request a hearing stated in the charging document.

(a) The answer must include an admission or denial of each factual matter alleged in the charging document and a statement of each relevant defense to the allegations, including any relevant mitigating circumstance.

(b) A general denial is not sufficient to constitute an answer.

(2) An answer not including the information required by this rule may be disregarded and a notice of default may be issued in accordance with OAR 165-001-0025 as if no answer had been filed.

(3) Except for good cause shown to the administrative law judge, factual matters alleged in the charging document and not denied in the answer will be deemed admitted by the party.

(4) The failure of the party to raise a mitigating circumstance in the answer is a waiver of such mitigating circumstance.

(5) The party bears the burden of proof to show that all or part of the penalty should be mitigated based on a mitigating circumstance.

(6) Any new facts or defenses alleged in the answer will be deemed denied by the Agency.

(7) Evidence will not be taken at the contested case hearing on any factual or legal issue not raised in the charging document or the answer as filed.

Stat. Auth.: ORS 246.150
 Stats. Implemented: ORS 260.232 & 260.995
 Hist.: ELECT 7-2011, f. & cert. ef. 4-8-11

165-001-0025

Orders When No Hearing Requested or Failure to Appear

(1) When a party has been given an opportunity to request a hearing and fails to request a hearing in writing 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 by default 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. If the certified card is not returned to the Secretary of State by the United States Postal Service (USPS), the Secretary shall use the date recorded on the official USPS website utilizing the Track and Confirm delivery service.

(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 Administrative Law Judge 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. A continuance shall be granted only if the reason for the inability to appear is beyond the reasonable control of the party.

(3) The prima facie record upon default 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.

(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 Administrative Law Judge has set a specified time and place for a hearing and the party subsequently notifies the agency or the Administrative Law Judge assigned to the case that the party will not appear at such specified time and place, the agency may cancel the hearing and follow the procedure described in subsections (2), (3) and (4) of this rule.

(6) When a party requests a hearing after the time specified by the agency, but before entry of a final order by default, or, if a final order by default is entered, on or before 30 calendar days after entry of the order, the agency may accept the late request only if the cause for failure to timely request the hearing was beyond the reasonable control of the party. In determining whether to accept a late hearing request, the agency may require the request to be supported by an affidavit and may conduct such further inquiry, including holding a hearing, that it deems appropriate. The agency shall enter an order granting or denying the request.

(7) When a party requests a hearing after entry of a default order, the party must file the request within a reasonable time. If the request is received more than 30 days after the agency mailed the default order to the party or the party's attorney (based on the service date of the order), it is presumed that the request is not timely. The request shall state why the party should be relieved of the default order. If the request is allowed by the agency, it shall enter an order granting the request and schedule the hearing in due course. If the request is denied, the agency shall enter an order setting forth its reasons for the 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 183.470.

(9) Notwithstanding the provisions of this rule relating to late requests for a hearing, no hearing may be held if the timing of the

request would cause the agency to miss the statutory deadlines established for the conduct of hearings in ORS 260.232(4) or 260.995(6).

Stat. Auth.: ORS 183.090, 183.470, 246.150, 260.232 & 260.995
 Stats. Implemented: ORS 183.470, 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; ELECT 7-2003, f. & cert. ef. 9-3-03; ELECT 19-2009, f. & cert. ef. 12-31-09

165-001-0034

Notarized Testimony in lieu of Hearing

(1) If a party wishes to contest the allegations in the charging document, but does not wish to request an in person or telephone hearing, the party may submit notarized testimony in lieu of a hearing.

(2) The notarized testimony must be filed with the Agency not later than the deadline to request a hearing stated in the charging document.

(3) The notarized testimony must:

(a) Include an admission or denial of each factual matter alleged in the charging document and a statement of each relevant defense to the allegations, including any relevant mitigating circumstance. A general denial is not sufficient. Notarized testimony not including the information required by this rule may be disregarded and a notice of default may be issued in accordance with OAR 165-001-0025 as if no notarized testimony had been filed.

(b) Include a signed and completed Notarized Testimony form.

(c) Be notarized by a licensed Notary Public.

(4) After the party submits notarized testimony, the Agency may submit notarized testimony to the Office of Administrative Hearings and the party. If the Agency submits notarized testimony, it will be transmitted via email to the Office of Administrative Hearings and the party. The Agency may mail its notarized testimony to the party's last known address if the party's email address is unknown or does not accept the Secretary of State's email.

(5) The party may, but is not required to, respond to the Agency testimony by submitting rebuttal notarized testimony.

(a) Rebuttal notarized testimony is limited to issues raised in the original notarized testimony and the Agency's testimony.

(b) Rebuttal notarized testimony must be notarized by a licensed Notary Public.

(c) The rebuttal notarized testimony must be received by the Agency not later than five business days from the date of service of the Agency's testimony (the date the testimony was emailed or mailed).

(d) The notarized testimony hearing record is deemed closed the day after the deadline for the person to submit rebuttal testimony.

(6) If a person submits notarized testimony in lieu of requesting an in person or telephone hearing, the person is waiving their right to an in person or telephone hearing.

Stat. Auth.: ORS 246.150
 Stats. Implemented: ORS 260.232 & 260.995
 Hist.: ELECT 7-2011, f. & cert. ef. 4-8-11

165-001-0035

Conducting Contested Case Hearings

(1) The contested case hearing shall be conducted by and under the control of the administrative law judge of the Office of Administrative Hearings that is assigned to the case.

(2) If the administrative law judge or any decision maker has an actual or potential conflict of interest as defined in ORS 244.020(1) or (7), that officer shall comply with the requirements of ORS Chapter 244 (e.g. ORS 244.120 and 244.130).

(3) The hearing shall be conducted, subject to the discretion of the administrative law judge, 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 administrative law judge, 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 administrative law judge.

(6) The administrative law judge may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitive, or immaterial matter.

(7) Exhibits shall be marked and maintained by the administrative law judge as part of the record of the proceedings.

(8) If the administrative law judge 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.

Stat. Auth.: ORS 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 7-2003, f. & cert. ef. 9-3-03; ELECT 19-2009, f. & cert. ef. 12-31-09

165-001-0036

Employee Representation at Contested Case Hearings

(1) The Agency’s goal in contested case hearings is to have a full and accurate record upon which the Agency can make the best decision. To help ensure a full record, the Agency allows employees to represent the Agency in certain contested case hearings. The employee representative’s role is to represent the Agency in a way that supports objective fact finding and encourages an open, fair, and efficient process.

(2) An Agency employee may represent the Agency in contested case hearings involving violations of ORS 260.035, 260.039, 260.041, 260.042, 260.044, 260.054, 260.055, 260.057, 260.076, 260.078, 260.083, 260.102, 260.112, 260.118, and 260.735.

(3) The representative’s responsibilities include, but are not limited to:

- (a) Presenting evidence;
- (b) Asking questions of all witnesses;
- (c) Presenting information about the facts, and advocating for staff’s position surrounding the facts;
- (d) Presenting information on how the facts apply to the statutes or rules directly related to the issues in the contested case;
- (e) Presenting information comparing Agency actions in similar situations;
- (f) Presenting information about the literal meaning of the statutes or rules that apply to the issues in the contested case; and
- (g) Presenting information about the admissibility of evidence or the correctness of procedures being followed.

(4) The employee representative may not make legal arguments. “Legal arguments” include arguments on:

- (a) The jurisdiction of the Agency to hear the contested case;
- (b) The constitutionality of a statute or rule or the application of a constitutional requirement to the Agency; and
- (c) The application of court precedent to the facts of the particular contested case proceeding.

(5) When an employee represents the Agency in a contested case hearing, the presiding officer will advise the employee representative of the way in which objections may be made. This advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objections. If the objections involve legal argument, the presiding officer will provide reasonable opportunity for the employee representative to consult legal counsel and permit legal counsel to file written legal argument within a reasonable time after the conclusion of the hearing.

Stat. Auth.: ORS 246.150
 Stats. Implemented: ORS 260.232 & 260.995
 Hist.: ELECT 7-2011, f. & cert. ef. 4-8-11

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 administrative law judge subject to the administrative law judge’s power to exclude irrelevant, immaterial or unduly repetitious matter.

(4) Evidence objected to may be received by the administrative law judge. If the administrative law judge does not rule on its admissibility at the hearing, the administrative law judge shall do so either on the record before a proposed order is issued or in the proposed order.

(5) The administrative law judge shall accept an offer of proof made for excluded evidence. The offer of proof shall contain sufficient detail to allow the agency or court to determine whether the evidence was properly excluded. The administrative law judge shall have discretion to decide whether the offer of proof is to be oral or written and at what stage in the proceeding it will be made. The administrative law judge may place reasonable limits on the offer of proof, including the time to be devoted to an oral offer or the number of pages in a written offer.

(6) Pursuant to OAR 165-001-0016, evidence may not be taken at the contested case hearing on any factual or legal issue not raised in the charging document or the answer.

Stat. Auth.: ORS 246.150, 260.232 & 260.995
 Stats. Implemented: ORS 183.450, 183.470, 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 9-1999, f. & cert. ef. 9-29-99; ELECT 7-2003, f. & cert. ef. 9-3-03; ELECT 19-2009, f. & cert. ef. 12-31-09; ELECT 7-2011, f. & cert. ef. 4-8-11

165-001-0045

Ex Parte Communications

- (1) An ex parte communication is:
 - (a) An oral or written communication;
 - (b) By a party, a party’s representative or legal advisor, any other person who has a direct or indirect interest in the outcome of the proceeding, any other person with personal knowledge of the facts relevant to the proceeding, or any offer, employee or agent of the agency;
 - (c) That relates to a legal or factual issue in the contested case proceeding;
 - (d) Made directly or indirectly to the administrative law judge;
 - (e) While the contested case proceeding is pending;
 - (f) That is made without notice and opportunity for the agency and all parties to participate in the communication.

(2) If an agency decision maker or administrative law judge receives an ex parte communication during the pendency of the proceeding, the administrative law judge shall place in the record:

- (a) The name of each individual from whom the administrative law judge received an ex parte communication;
- (b) A copy of any ex parte written communication received by the administrative law judge;
- (c) A memorandum reflecting the substance of any ex parte oral communication made to the administrative law judge;
- (d) A copy of any written response made by the administrative law judge to any ex parte oral or written communication; and
- (e) A memorandum reflecting the substance of any oral response made by the administrative law judge to any ex parte oral or written communication.

- (3) The provisions of this rule do not apply to:
 - (a) Communications made to an administrative law judge by other administrative law judges;
 - (b) Communications made to an administrative law judge by any person employed by the Office of Administrative Hearings to assist the administrative law judge.

Stat. Auth.: ORS 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 7-2003, f. & cert. ef. 9-3-03; ELECT 19-2009, f. & cert. ef. 12-31-09

165-001-0050

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

(1) The administrative law judge shall prepare a proposed order and serve the proposed order on the agency and each party. The

proposed order shall be served not later than 30 calendar days after the hearing is adjourned. The proposed order shall also include information about when and where written exceptions to the proposed order must be filed to be considered by the agency.

(2) If the administrative law judge's proposed order recommended a decision favorable to a party and the agency intends to reject that recommendation and issue an order adverse to that party, the agency shall issue an amended proposed order. When the agency serves an amended proposed order on the party, the agency shall, at the same time notify the party when and where written exceptions for the amended order must be filed to be considered by the agency.

(3) The agency decision maker, after considering any of the written exceptions may adopt the proposed order, amended proposed order or prepare a new order.

Stat. Auth.: ORS 183.090, 183.470, 246.150, 260.232 & 260.995
 Stats. Implemented: ORS 183.470, 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 7-2003, f. & cert. ef. 9-3-03; ELECT 19-2009, f. & cert. ef. 12-31-09; ELECT 10-2011, f. & cert. ef. 7-12-11

165-001-0055

Final Orders

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

- (a) The case caption.
- (b) The name of the administrative law judge(s), the appearance of the parties and identity of witnesses.
- (c) A statement of the issues.
- (d) References to specific statutes or rules at issue.
- (e) Rulings on admissibility of offered evidence when the rulings are not set forth in the record.
- (f) Findings as to each issue of fact and as to each ultimate fact required to support the order, along with a statement of the underlying facts supporting each finding.
- (g) Conclusion(s) of law based on the findings of fact and applicable law.
- (h) An explanation of the reasoning that leads from the findings of fact to the legal conclusion(s)
- (i) An order stating the action taken by the agency as a result of the facts found and the legal conclusions arising therefrom.
- (j) A citation of the statutes under which the order may be appealed.
- (k) The date of service of the order on the party shall be specified in writing and be part of or attached to the order on file with the agency.

(1) The final order shall be served on each party and, if the party is represented, on the party's attorney.

(2) If the agency modifies the proposed order issued by the administrative law judge in any substantial manner, the agency must identify the modifications and explain to the parties why the agency made the modifications. For purposes of this provision, an agency modifies a proposed order in a "substantial manner" when the effect of the modification is to change the outcome or the basis for the order or to change a finding of fact.

Stat. Auth.: ORS 183.090, 183.470, 246.150, 260.232 & 260.995
 Stats. Implemented: ORS 183.470, 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 7-2003, f. & cert. ef. 9-3-03; ELECT 19-2009, f. & cert. ef. 12-31-09

(1) The final order shall be served on each party and, if the party is represented, on the party's attorney.

(2) If the agency modifies the proposed order issued by the administrative law judge in any substantial manner, the agency must identify the modifications and explain to the parties why the agency made the modifications. For purposes of this provision, an agency modifies a proposed order in a "substantial manner" when the effect of the modification is to change the outcome or the basis for the order or to change a finding of fact.

Stat. Auth.: ORS 183.090, 183.470, 246.150, 260.232 & 260.995
 Stats. Implemented: ORS 183.470, 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 7-2003, f. & cert. ef. 9-3-03; ELECT 19-2009, f. & cert. ef. 12-31-09

165-001-0080

Contested Case Hearings

(1) The administrative law judge will hold a hearing by telephone unless the party requesting the hearing specifically requests a personal appearance hearing. If the party requests a personal appearance hearing, the hearing shall be held in Salem at the Office of Administrative Hearings. Nothing in this rule precludes the agency from allowing some parties or witnesses to attend by telephone while others attend in person.

(2) The administrative law judge shall make an audio or stenographic record of any telephone hearing.

(3) Not less than 5 business days prior to the commencement of a hearing, each party, including the agency, must deliver copies of the exhibits it intends to offer into evidence at the hearing. The exhibits must be delivered to the administrative law judge, all parties and the agency. For purposes of this rule, delivery may be accomplished by any of the following means, or by other means of a similar nature: hand delivery, deposit into first class or certified mail, facsimile, email or professional delivery service.

(4) Nothing in this rule precludes any party or the agency from seeking to introduce documentary evidence in addition to evidence described in subsection (4) during the hearing. The administrative law judge shall receive such evidence, subject to the applicable rules of evidence, if inclusion of the evidence in the record is necessary to conduct a full and fair hearing. If any evidence introduced during the hearing has not previously been provided to the agency and to the other parties, the hearing may be continued upon the request of any party or the agency for sufficient time to allow the party or the agency to obtain and review the evidence.

(5) The agency will give primary consideration to accommodate the needs of persons that are disabled so that they are not disadvantaged due to their disability.

(6) As used in this rule, "telephone" means any two-way or multi-party electronic communication device, including video conferencing.

Stat. Auth.: ORS 260
 Stats. Implemented: ORS 260.232 & 260.995
 Hist.: ELECT 5-1999, f. 7-30-99, cert. ef. 9-1-99; ELECT 19-2009, f. & cert. ef. 12-31-09; ELECT 5-2010, f. & cert. ef. 11-1-10

165-001-0090

HAVA Complaint Procedures

(1) The purpose of this rule is to adopt procedures for the receipt and disposition of complaints filed with the Secretary of State, Elections Division alleging violations of Title III of the Help America Vote Act of 2002 (HAVA). The rule is intended to fully comply with all federal requirements for the complaint procedure, as described in Section 402 of HAVA (P.L. 107-252).

(2) The procedures described in this rule are to be used solely for complaints filed alleging a violation of Title III of HAVA. Title III includes voting system standards, accessibility of voting systems to persons with disabilities, instructions on correcting voting errors, identification requirements for voting in federal elections if registration was by mail, computerized voter registration, contents of registration forms and provisional voting.

(3) State and county elections officials are encouraged to resolve HAVA complaints informally if possible. If informal resolution is not possible, and a person wishes to file a formal HAVA complaint under this procedure, the person shall use the HAVA complaint form (SEL 820). The complaint will be accepted and processed only if made in writing, signed under oath by the person filing the complaint, and notarized. The complaint form must be filed directly with the Secretary of State, Elections Division. If the complaint is submitted to a county elections office, the county elections official shall promptly forward the original complaint to the Elections Division. The complaint shall be considered filed on the day it is received at the office of the Elections Division.

(4) Upon receipt of a complaint, the Elections Division staff will review the complaint to determine if it alleges a violation of Title III of HAVA. If the complaint does not allege a violation of Title III, the complaint will be dismissed, with a letter provided to the complainant explaining the reason for the dismissal. If the complaint alleges a violation of Title III, the complaint will be acknowledged in writing, and the complainant will be offered the opportunity to request a hearing on the record. A hearing on the record may be provided by telephone or in person. The Elections Division staff will then request information from other persons who may have information related to the substance of the complaint. When the responses are received, copies will be sent to the complainant to provide an opportunity for the complainant to respond or rebut the information provided. Unless the complainant requested a hearing on the record, or the Elections Division chooses to provide such a hearing because of the nature of the allegations and responses, the Division will

prepare a determination letter based on the information provided. The determination letter will address whether any violation of Title III has occurred and address how to resolve the problem to avoid its occurrence in the future.

(5) If a hearing on the record is scheduled, the Division will decide whether the hearing is to be conducted by telephone or in-person. The complainant and other persons who have relevant information to provide will be invited to participate. The hearing will be conducted before an Elections Division employee. The purpose of the hearing is to determine whether any procedure required by Title III was not correctly followed, and to develop a plan to make sure the violation, if any, does not happen again. The hearing is to be conducted as a fact-finding, problem solving forum. A record must be kept, including copies of any documents submitted and minutes, a tape or other record of the hearing.

(6) Whether the complaint is resolved through the procedures of subsections (4) or (5) of this rule, the final determination will be prepared by the Elections Division. If the outcome of the proceeding requires the provision of a remedy, the remedy must conform to state elections law and will not include financial payments to complainants or civil penalties against other involved individuals. Remedies may include written findings that a violation of Title III has occurred, strategies for insuring that that violation does not occur again, and, if it appears that the complaint involves a systemic problem, possible actions by the Elections Division to provide better instructions, training or procedures to all election officials to avoid future violations.

(7) Final determination letters will be signed by the Secretary of State or Deputy Secretary of State. All determination letters will be posted on the Division's website. A copy of the final determination will be provided to the complainant and to any other persons who provided information or participated in a hearing.

(8) The Division will handle all complaints filed under this rule in a way that allows a final determination to be issued within 90 days of the receipt of the complaint. If delays appear to put the 90 day deadline at risk, the Division may ask the complainant to provide an extension to complete the investigation or to conduct the hearing. If the complainant does not agree to provide an extension, the final determination must either be issued within the 90 days, or the matter must be referred to the dispute resolution process described in subsection (9).

(9) The Division will provide an alternative dispute resolution process for complaints that are not resolved within 90 days of the filing of the complaint (unless an extension is granted by the complainant) or for complaints that the Division, in its sole discretion, determine warrant this level of review. The alternative dispute resolution process is intended to be a consensus or cooperative outcome procedure, not an arbitration or mediation process model with adversaries or parties. The Division will select a person from a panel of volunteers who agree to provide their services to convene a meeting of the interested parties to resolve a particular complaint or complaints. The panel member will then recommend an outcome to the Secretary, to be adopted within 60 days of the referral. The Secretary will adopt the recommendation, or a revised version of the recommendation, as appropriate. Final determinations reached following this alternative dispute resolution process shall be publicized and distributed in the manner described in subsection (7) of this rule.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 246.150, Ch. 64, 2003 OL
Stats. Implemented: Ch. 64, 2003 OL
Hist.: ELECT 25-2003, f. & cert. ef. 12-31-03

**DIVISION 2
GENERAL BUSINESS**

**165-002-0005
Refunds**

(1) This rule provides for the refund of fees paid in excess of the amount legally due to the Elections Division.

(2) The Elections Division shall not refund fees paid in excess of the amount legally due to the Division if the amount is \$10 or less,

unless a refund is requested in writing by the applicant or the applicant's legal representative within three years after the date of the overpayment.

Stat. Auth.: ORS 293
Stats. Implemented: ORS 293.445
Hist.: SD 17-1984, f. & ef. 9-14-84; ELECT 17-2003, f. & cert. ef. 12-5-03

**165-002-0010
Schedule and Fees for Providing Copies of Public Records**

(1) Any person may request photocopies, facsimile (fax) copies, electronically distributed (email) 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, by telephone, by facsimile (fax) or by electronic submission (email). For purposes of this rule a page is considered to be a single sheet of paper with information on either one side or both sides.

(2) Charges for photocopy orders will be the lesser of:

(a) \$0.25 per page; or

(b) For orders requiring 4 or more hours of staff time to process, \$0.03 per page, plus labor charges calculated as provided in paragraph 7(b);

(c) If the completed photocopy order is mailed, the minimum charge will be \$1.00 prepaid. If the order is to be billed, the minimum charge will be \$5.00;

(d) There is no minimum charge for credit card transactions.

(3) Completion of copy orders is contingent upon the number of pending requests and staff availability. Orders will be processed in the order in which they are received.

(4) Facsimile (fax) copy orders shall be processed as follows:

(a) The cost of records transmitted by facsimile (fax) will be \$5.00 for the first page and \$1.00 for each additional page;

(b) Facsimile (fax) orders are limited to a 20 page maximum, not including the cover page;

(c) Facsimile (fax) orders are limited to in-state customers unless prepayment is received.

(5) Certified copies of public records shall be provided at a cost of \$5.00 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.

(6) Copies of public records may also be provided on a 3.5-inch computer disk or compact disk (CD) if the document(s) are stored in the computer system. Disks will be provided at a cost of \$5.00 per disk and may contain as much information as it will hold.

(7) Labor charges for research projects shall be as follows:

(a) No charge for the first 15 minutes of staff time;

(b) Beginning with the 16th minute, the charge per total request shall be \$25.00 per hour or \$6.25 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.

(8) Billing will be done on the following basis:

(a) 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 \$5.00 may be charged;

(b) 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 order.

(9) For orders, including research projects, which have an estimated total cost exceeding \$50.00, a deposit of one-half of the estimated total cost of the order will be required prior to processing.

(10) The following will be provided free of charge:

(a) Copies of any manual produced and adopted by the Secretary of State, Elections Division, limited to one copy of each requested manual per customer;

- (b) Lists of federal and statewide elected officials, the legislative assembly, judges, and district attorneys;
- (c) Voter registration statistics;
- (d) Press releases;
- (e) 8.5" X 11" maps;
- (f) Any document distributed by electronic mail (email); and
- (g) The first 25 pages of any photocopy order placed by a state agency.

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; ELECT 10-1998, f. & cert. ef. 11-3-98; ELECT 17-2003, f. & cert. ef. 12-5-03; ELECT 9-2006, f. & cert. ef. 5-15-06; ELECT 20-2009, f. & cert. ef. 12-31-09

**165-002-0020
 Schedule and Fees for Providing Statewide and Less Than Statewide Voter List**

(1) Any person may obtain an electronic copy of a statewide or less than statewide voter list from the Office of the Secretary of State, Elections Division, or any county elections official. The following fees for providing a list electronically will apply:

- (a) \$25.00 fee for staff and processing time, and media used
- (b) \$.025 per 100 voters
- (c) The maximum charge excluding the fee assessed under paragraph 2 of this rule will be \$500.00.

(2) For any special formatting requests, an hourly fee of \$35.00 per hour will be assessed. The minimum fee assessed under this paragraph will be \$35.00 and the maximum \$100.00. Special formatting requests do not include providing the electronic copy of a statewide or less than statewide voter list in an alternate electronic format such as an Excel or Access file, rather than a tab delimited text file.

(3) In accordance with ORS 247.945(4) the charge for a statewide voter list is \$500.00. No special formatting requests will be permitted for a statewide voter list.

(4) A request for a hardcopy of a less than statewide voter list, labels, or other non-electronic formats must be made with the county elections official of each county in which voters to be listed reside.

(5) In accordance with ORS 192.440(3)(a) a county may establish fees reasonably calculated to reimburse the county for the actual cost of making the list available, including costs for summarizing, compiling or tailoring the public records, either in organization or media, to meet the person's request.

(6) Any fee calculated under paragraph 1 of this rule may be rounded up to the nearest nickel.

(7) All requests for a statewide or less than statewide voter list will be accompanied by a completed SEL 510, Customer Request Form for Statewide or Less Than Statewide Voter List.

(8) The voter list must not be used for commercial purposes. Under ORS 247.955 a person will not be considered to use the voter list for commercial purposes if the person obtains the list of electors for the purpose of resale to candidates or political committees for political purposes only.

Stat. Auth.: ORS 192.440, 246.150
 Stats. Implemented: ORS 192.440
 Hist.: ELECT 12-2006, f. & cert. ef. 8-23-06; f. & cert. ef. 12-31-07; ELECT 20-2009, f. & cert. ef. 12-31-09

**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 documents.

(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, Suite 501, 255 Capitol St NE, Salem, OR 97310; telephone number (503) 986-1518; facsimile (fax) number (503) 373-7414; and for documents required or allowed to be filed electronically (email), elecfile.sos@state.or.us.

(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 in its entirety 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; ELECT 17-2003, f. & cert. ef. 12-5-03

DIVISION 4

CITY INCORPORATION

**165-004-0005
 Forms to Petition for Incorporation of a City**

The Secretary of State hereby adopts by reference and designates the following forms for filing a petition for incorporation of unincorporated territory as a city:

- (1) SEL 701, Prospective Petition for Incorporation, which designates not more than three chief petitioners;
- (2) SEL 702, Petition for Incorporation of a City Signature Sheet;

(3) SEL 702a, Petition for Incorporation of a City Signature Sheet, to be used when the territory proposed to be incorporated is within the jurisdiction of a local government boundary commission. [ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 221.031 & 246.150
 Stats. Implemented: ORS 221.031, 221.040
 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; ELECT 1-1998, f. & cert. ef. 2-5-98; ELECT 10-1998, f. & cert. ef. 11-3-98; ELECT 14-1999(Temp) f & cert. ef. 12-29-99 thru 6-26-00; ELECT 10-2000; ELECT 8-2007 f. & cert. ef. 6-7-00; ELECT 28-2007, f. & cert. ef. 12-31-07

**165-004-0020
 Forms to Petition for Creation of a City Through Consolidation**

The Secretary of State hereby adopts by reference and designates the following forms for filing a petition to create a city by consolidation of adjoining or nonadjoining cities or unincorporated territory:

- (1) SEL 705, Prospective Petition to Create a City by Consolidation, which designates not more than three chief petitioners;
- (2) SEL 706, Petition for Creation of a City Through Consolidation signature sheet.

[ED. NOTE: Forms referenced are available from the agency.]
 Stat. Auth.: ORS 222.230, 246.120 & 246.150
 Stats. Implemented: ORS 222.210, 222.220, 222.225 & 222.230
 Hist.: ELECT 4-2002(Temp), f. & cert. ef. 6-12-02 thru 12-9-02; ELECT 7-2002, f. & cert. ef. 8-1-02; ELECT 28-2007, f. & cert. ef. 12-31-07

DIVISION 5

VOTER REGISTRATION

Registration of Naturalized U.S. Citizens

**165-005-0050
 Registration Procedures for Newly Naturalized Citizens**

(1) The purpose of these rules are to establish procedures 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.

(2) For purposes of this rule, these terms mean:

(a) "Qualified Person" — A resident of the State of Oregon who is a United States citizen by 8pm on the day of the election; 17 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.

(b) "Naturalized United States Citizen" — A citizen of another country who has met the Bureau of Citizenship and Immigration Services requirements to obtain U.S. citizenship and, through a legal procedure, becomes a citizen of the United States.

(c) "Evidence of Citizenship" — A Certificate of Naturalization, which is an identity document proving U.S. citizenship, issued

by the Bureau of Citizenship and Immigration Services, after the person takes the Oath of Allegiance to the United States.

(3) A person who will become a United States citizen after the 21st calendar day preceding an election, and who wishes to register to vote in that election, shall appear personally in the office of any County Elections Official, before the 20th day before the election, to request a voter registration form. The person shall explain that the person become a naturalized United States citizen after the voter registration deadline but prior to the next election.

(4) The office of the County Elections Official shall permit the person to complete and submit a voter registration form. The County Elections Official shall include a notation that the individual will be a citizen, after the voter registration deadline but prior to the next election.

(5) The office of the County Elections Official shall explain to the person that unless the person appears before the county clerk and provides evidence of citizenship by 8pm on the day of the election, the person's pending registration will be canceled. If the evidence of citizenship is presented before 8pm on election day, the person shall be issued a ballot for that election.

(6) If the person fails to provide timely evidence of citizenship, the office of the County Elections Official shall cancel the person's pending registration.

Stat. Auth.: ORS 246.150
 Stats. Implemented: ORS 247.015
 Hist.: ELECT 23-1990, f. & cert. ef. 7-13-90; ELECT 25-1994, f. & cert. ef. 10-27-94; ELECT 1-2001, f. & cert. ef. 2-1-01; ELECT 8-2003, f. & cert. ef. 9-3-03; ELECT 6-2009, f. & cert. ef. 5-4-09

Agency Registration

165-005-0055

Designating NVRA Voter Registration Agencies

(1) "Voter Registration Agency" means one of the following:

- (a) Armed Forces recruitment offices operated by the U.S. Department of Defense;
- (b) Commission for the Blind;
- (c) Children, Adults and Families Division;
- (d) Addictions and Mental Health Division;
- (e) Office of Family Health Services WIC;
- (f) Seniors and People with Disabilities Division;
- (g) Office of Vocational Rehab Services;
- (h) Oregon Department of Transportation;
- (i) Oregon University System;

(2) "Agency Site" means any voter registration location named by a voter registration agency designated in section (2) of this rule.

(3) "County Elections Official" means the official responsible for voter registration in any county.

(4) Some voter registration agencies are not required under the National Voter Registration Act to be designated as voter registration agencies. A volunteer agency, the following agency is exempt from the requirements of ORS 247.208(2) and (4): Oregon University System.

(5) The Armed Forces recruitment offices, operated by the U.S. Department of Defense, are exempt from reporting statistical information to the Secretary of State and report directly to the Election Assistance Commission.

Stat. Auth.: ORS 246.150 & 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; ELECT 20-2000, f. & cert. ef. 12-8-00; ELECT 8-2003, f. & cert. ef. 9-3-03; ELECT 11-2011, f. & cert. ef. 7-12-11

165-005-0060

Collection of Registration Cards

(1) Personnel at all agency sites shall forward completed voter registration cards to the County Elections Official 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 other arrangements have been made with the County Elections Official that may be more economical or efficient.

(2) The Secretary of State shall notify agency sites of impending registration-related deadlines.

(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 & 247.208
 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; ELECT 21-2000, f. & cert. ef. 12-8-00; ELECT 8-2003, f. & cert. ef. 9-3-03

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 Elections Official.

(2) At least monthly, on the form or in the manner 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 elections office since the last report.

(3) County Elections Officials shall record the following voter registration information in the Oregon Centralized Voter Registration System (OCVR) allowing the Secretary of State to compile the information and report to the Election Assistance Commission:

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

(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 to vote in Oregon or who is currently cancelled (New);

(e) The number of registration applications that update an existing registration including the residential address from one county to another (Update); and

(f) The number of registration applications submitted by persons already registered to vote at the same address, under the same name, with the same personal information and the same political party (Duplicate).

(4) New, updated or duplicate registrations shall be recorded in the following categories:

(a) By mail all cards received from individuals that arrive by United States Postal Service;

(b) By other means all cards received from individuals arriving in person or another method, other than by United States Postal Service;

(c) From the Department of Transportation (DMV) — all cards received from DMV offices regardless of how the cards arrive;

(d) From a #3 — agency all cards received from a #3 agency regardless of how the cards arrive. #3 agencies include Addictions and Mental Health Division, Children, Adults & Families Division; and the Office of Family Health Services — WIC;

(e) From a #4 — agency all cards received from a #4 agency regardless of how the cards arrive. #4 agencies include the Commission for the Blind; Seniors & People with Disabilities; and the Office of Vocational Rehab Services;

(f) From Armed Forces Recruitment offices — all cards received from Armed Forces offices regardless of how the cards arrive;

(g) From all other designated voter registration agencies — all cards received from the Oregon University System, Secretary of State or other County Elections Office regardless of how the cards arrive; and

(h) Received on a Federal Voting Assistance Program (FVAP) registration application regardless of how the cards arrive.

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; ELECT 22-2000, f. & cert. ef. 12-8-00; ELECT 11-2011, f. & cert. ef. 7-12-11

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.

(2) Voter registration agencies shall provide written notice to the Secretary of State of any change, to the following information within 30 days of the change:

(a) The identity of the NVRA coordinator for the 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 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 which 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;

(c) Would reasonably be understood to be associated with a political party or other political party preference; or

(d) Would reasonably be understood to be advocating support or opposition to a ballot measure or candidate for elective office.

Stat. Auth.: ORS 246.150 & 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; ELECT 15-2001, f. & cert. ef. 6-15-01; ELECT 8-2003, f. & cert. ef. 9-3-03

165-005-0080

Request for Delivery and Distribution of Voter Registration Cards

(1) The purpose of this rule is to set out the procedures for handling requests for delivery of voter registration cards.

(2) 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 elections official 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.

(3) The Secretary of State shall maintain records to determine when an aggregate of 5,000 voter registration cards have been delivered to any person during the time periods described ORS 247.176(1).

(4) Requests by any person for voter registration forms in excess of the 5,000 aggregate during any one time period will be made to the Secretary of State. The Secretary of State will honor requests for delivery of more than 5,000 registration cards in the following circumstances:

(a) When the request is made in writing and the requester agrees to pay the printing costs of the cards requested; or

(b) 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 drive will be returned to the Secretary of State.

(5) At the discretion of the Secretary of State, requests for additional voter registration forms may be satisfied by authorizing the requesting person to print the voter registration forms at the person's own expense, according to Secretary of State specifications.

(6) The free public distribution of registration cards by a person approved by the Secretary of State under to print, copy or otherwise prepare and distribute voter registration forms, even though the distributor incurs costs in the distribution, does not constitute undue influence to affect registration, voting or candidacy.

(7) Nothing in this rule shall be deemed to limit the distribution of voter registration forms to permanent registration locations as designated by the County elections official or to voter registration agencies as designated by the Secretary of State.

(8) These procedures shall be construed liberally in order not to impede voter registration in this state.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 246.150 & 247.176

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 165-002-0015; ELECT 25-1994, f. & cert. ef. 10-27-94; ELECT 9-2001, f. & cert. ef. 3-15-01; ELECT 8-2003, f. & cert. ef. 9-3-03

165-005-0130

Residence Address Disclosure Exemption

(1) The purpose of this rule is to define when a county elections official may exempt the residence address 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 elections official not disclose the residence address of the elector. If the elector demonstrates to the satisfaction of the county elections official 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 remains available for public inspection, the county elections official shall not disclose that information except in compliance with a court order, a request by a law enforcement agency, or with the consent of the elector.

(4) An exemption from disclosure granted under this rule shall include the residence address on the elector's voter registration record, registration lists produced in accordance with ORS 247.940 and 247.945, poll books, and any other material produced or maintained by the county elections official which is available for public inspection that may reveal the requestor's residence address. 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 elections official. The exemption request shall be submitted on form SEL 550 Application to Exempt Residence Address from Disclosure. The request shall be in writing, signed by the elector, and shall include:

(a) The name of the elector requesting exemption;

(b) A non-exempt mailing address for the elector; and

(c) Evidence sufficient to establish to the satisfaction of the county elections official that disclosure of the elector's residence address 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 the following documents:

(A) An affidavit, medical records, police reports or court records showing that the elector, or a family member residing with the elector, has been a victim of domestic violence;

(B) A citation or an order issued under ORS 133.055 for the protection of the elector, or a family member residing with the elector;

(C) An affidavit or police report showing that a law enforcement officer has been contacted concerning domestic violence, other physical abuse, or threatening or harassing letters or telephone calls directed at the elector, or a family member residing with the elector;

(D) 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) Court records showing that criminal or civil legal proceedings have been filed regarding physical protection for the elector, or a family member residing with the elector;

(F) A citation or a court's stalking protective order pursuant to ORS 163.735 or 163.738, obtained for the protection of the elector, or a family member residing with the elector;

(G) An affidavit or police report showing that the elector, or a family member residing with the elector, has been a victim of a person convicted of the crime of stalking or of violating a court's stalking protective order;

(H) A conditional release agreement issued under ORS 135.250–135.260 providing protection for the elector, or a family member residing with the elector;

(I) A protective order issued pursuant to ORS 135.873 or 135.970 protecting the identity or place of residence of the elector, or a family member residing with the elector;

(J) An affidavit from a district attorney, or deputy district attorney, stating that the elector, or a family member residing with the elector, is scheduled to testify or has testified as a witness at a criminal trial, grand jury hearing or preliminary hearing, and that such testimony places the personal safety of the witness in danger;

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

(L) Such other documentary evidence that establishes to the satisfaction of the county elections official that disclosure of the elector's residence address would constitute a danger to the personal safety of the elector, or a family member residing with the elector.

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

(7) If a county elections official grants the request to exempt the residence address of an elector from disclosure as a public record, the county elections official must include a statement in its notice to the elector that: the exemption will remain effective until the elector requests termination of the exemption or the elector is required to update the elector's voter registration.

(8) If the elector is required to update the elector's voter registration, the elector may apply for another exemption from disclosure. At the time of updating if no SEL 550 Application To Exempt Residence Address From Disclosure As A Public Record accompanies the voter registration card or is incomplete, the county elections official must send notice, by certified mail return receipt requested, to the elector that states:

(a) Currently the elector's address is non-disclosed; and

(b) If an updated SEL 550 Application To Exempt Residence Address From Disclosure As A Public Record is not received within 10 business days of receipt of the notice, the elector's residence address will not be exempt from disclosure as a public record.

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

(10) Form SEL 550 may be used by a public safety officer, as defined by ORS 181.610, to request that the person's home address, home telephone number and electronic mail address be exempted from disclosure pursuant to 192.501. A public safety officer making such a request is not required to provide information described in paragraph (5)(c).

(11) Form SEL 550 shall be used by a participant or parent or guardian of a participant in the Address Confidentiality Program to request that the elector's residence address be exempted from disclosure pursuant to ORS 192.842. The form shall be completed by the participant and include:

(a) The name of the elector requesting exemption;

(b) The substitute address provided by the Address Confidentiality Program; and

(c) A copy of the Address Confidentiality Program Authorization Card.

(12) A request under section (11) of this rule is not required to be signed and a copy of the Address Confidentiality Program Authorization Card is the only evidentiary documentation required.

(13) If a participant or parent or guardian of a participant in the Address Confidentiality Program is required to update the elector's voter registration due to a change in residence address, only an updated voter registration card is required to be completed.

(14) If a participant or parent or guardian of a participant in the Address Confidentiality Program is required to update the elector's voter registration due to a name change section (8) of this rule applies. If an updated SEL 550 is received in response to the notice in section (8) of this rule it must be accompanied by a copy of the Address Confidentiality Program Authorization Card.

(15) Pursuant to ORS 192.842 the county elections official may not disclose the elector's residence address, and the county elections official shall use the substitute address of the program participant for purposes of mailing a ballot to an elector under 254.470.

Stat. Auth.: ORS 246.150 & 247.969

Stats. Implemented: ORS 247.965 & 192.501

Hist.: ELECT 3-1994, f. & cert. ef. 2-4-94; ELECT 13-2001, f. & cert. ef. 6-15-01; ELECT 8-2003, f. & cert. ef. 9-3-03; ELECT 4-2006, f. & cert. ef. 4-18-06; ELECT 18-2006, f. 12-29-06, cert. ef. 1-1-07; ELECT 9-2007 f. & cert. ef. 12-31-07; ELECT 21-2009, f. & cert. ef. 12-31-09

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 person's signature on a document.

(2) Any voter who is unable, because of a disability, to sign the person's name by hand may use a signature stamp or other indicator on the person's voter registration form and any other election document requiring the voter's 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 (Signature Stamp Attestation) 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

Stats. Implemented: HB 3135, 1997

Hist.: ELECT 10-1997, f. & cert. ef. 10-27-97; ELECT 2-2001, f. 2-7-01, cert. ef. 2-8-01

165-005-0160

Electronic Voter Registration System

(1) The Secretary of State provides an online electronic voter registration system for use by an individual who has a valid:

(a) Oregon driver license, as defined in ORS 801.245;

(b) Oregon driver permit, as defined in ORS 801.250; or

(c) State identification card, issued under ORS 807.400; and an

(d) Electronic signature image on file with the Oregon Department of Motor Vehicles

(2) The electronic voter registration system shall allow an individual to complete and submit a registration card electronically. The electronic voter registration system can be used by electors to:

(a) Register for the first time in the state; and

(b) Update address, contact information or party information on an existing registration.

(3) The registrant's electronic signature image will be provided to the appropriate election official by the Oregon Department of Motor Vehicles and matched with the electronically delivered registration card.

(4) The electronic voter registration system should not be used for name changes. A paper registration card as provided in ORS 247.012 may be required to obtain the new signature image.

(5) The electronic voter registration system shall create an electronic time and date record at the time of submission which shall be deemed the time submitted for voter registration purposes if the registration is accepted by the county elections official.

(a) All times and dates referenced shall be considered in the Pacific Time Zone.

(b) Registration updates submitted electronically after 8PM Pacific Time on Election Day shall be treated as if they were received on the following day.

(6) County elections officials shall receive the electronically delivered registration card matched with the electronic signature image provided by the Oregon Department of Motor Vehicles with the electronic time and date record.

(a) The county elections official will review the submission and either accept the registration, reject the application, or contact the registrant for additional information.

(b) Once the county elections official has made a determination they will notify the registrant of their voter registration status.

(7) If the signature obtained from the Oregon Department of Motor Vehicles is illegible or otherwise unusable for elections use, the county elections official shall contact the registrant to obtain a usable signature. An elector is not eligible to vote a ballot until complete registration information, including a usable signature or an attestation is accepted by the county elections official.

Stat. Auth.: ORS 246.150 & 247.019

Stats. Implemented: ORS 247.019

Hist.: ELECT 1-2010, f. & cert. ef. 2-26-10

DIVISION 7

CONDUCT OF ELECTIONS

165-007-0030

Designating the Vote By Mail Manual

The Secretary of State designates the Vote By Mail Manual and associated forms, as the procedures for conducting all vote by mail elections. All vote by mail elections shall be conducted following the requirements of ORS Chapter 254 and the Vote By Mail Manual.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 246.150, 254.465 & 254.470

Stats. Implemented: ORS 247 & 254

Hist.: ELECT 5-1989, f. & cert. ef. 8-16-89; ELECT 9-2003, f. & cert. ef. 9-3-03; ELECT 26-2003, f. & cert. ef. 12-31-03; ELECT 10-2007 f. & cert. ef. 12-31-07

165-007-0035

Designating Ballot Request Forms

(1) The Secretary of State designates form SEL 111, Absentee Ballot Request Form, as the form an elector who will be away during an election, may submit to a county elections official to request an absentee ballot, except that if the elector is serving in the Armed Forces, the Merchant Marine or is temporarily living outside the territorial limits of the United States, a Federal Absentee Ballot Request Form must be submitted.

(2) The Secretary of State designates form SEL 111A, Absentee Ballot Request Form, as the form an elector who is 17 years old who will be away during an election, may submit to a county elections official to request an absentee ballot, except that if the elector is serving in the Armed Forces, the Merchant Marine or is temporarily living outside the territorial limits of the United States, a Federal Absentee Ballot Request Form must be submitted. The elector will not receive a ballot until an election occurs on or after their eighteenth birthday.

(3) The Secretary of State designates form SEL 113, Provisional Ballot Request Form, as the form an individual whose eligibility as a voter is in question may use to request a ballot. The provisional ballot will not be counted until the individual's eligibility is determined.

Stat. Auth.: ORS 246.150, 254.465, 254.470, Help America Vote Act P.L. 107-252

Stats. Implemented: ORS 247, 253.03 & 254

Hist.: ELECT 5-2006, f. & cert. ef. 4-18-06; ELECT 22-2009, f. & cert. ef. 12-31-09

165-007-0130

Method of Calculating Total Eligible Voters for Property Tax Measure Elections

(1) The purpose of this rule is to assist county elections officials in calculating the total number of eligible voters for purposes of applying Article XI, section 11(8) of the Oregon Constitution. As provided in Article XI, section 11k, the turnout requirements do not apply to elections held in May or November of any year. For purposes of applying Article XI, section 11(8) of the Oregon Constitution and this rule, active registered voters are eligible voters, and inactive registered voters are not eligible voters.

(2) To calculate the total number of eligible voters within the district holding the election, county elections officials must:

(a) 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) Add to the base group of "registered voters eligible to vote" any voter who is ineligible due to a change in residence address, or any inactive voter, who updates their voter registration as provided in ORS 247.307.

(c) Add to the base group of "registered voters eligible to vote" any voter determined to have been placed on the inactive list in error.

(d) Subtract from the base group of "registered voters eligible to vote," all voters who are determined during the particular election to be ineligible to vote, based on information received during the conduct of the election. These subtractions shall be made in the following manner:

(A) 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.

(B) Subtract all voters for whom written information is received, other than a returned ballot, showing to the satisfaction of the county elections official that the voter is ineligible to vote.

(3) The information regarding eligibility used to make the calculations described in (2)(b) through (d) shall be based on information received by the county elections official after the voter registration deadline in ORS 247.025 and 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.

(4) The calculation of the percentage of accepted ballots to the number of eligible voters to vote on the measure for a particular election shall be not later than the thirtieth (30th) day after the election.

(5) A voter eligible to vote within the district holding an election subject to Article XI, section 11(8) of the Oregon Constitution will be considered to have an accepted 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 "accepted" 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.

(6) For purposes of determining voter eligibility in local elections, Appendix A of this rule will apply.

[ED. NOTE: Appendices referenced are available from the agency.]

Stat. Auth.: ORS 246.120, 246.150, 254.465, 254.470 & Or. Const. Art. XI, Sec. 11(8)

Stats. Implemented: Or. Const. Art. XI, Sec. 11(8)

Hist.: ELECT 3-1997, f. & cert. ef. 2-25-97; ELECT 11-1997, f. & cert. ef. 10-27-97; ELECT 12-1999(Temp) f. & cert. ef. 10-19-99 thru 4-14-00; ELECT 4-2000, f. & cert. ef. 2-4-2000; ELECT 9-2003, f. & cert. ef. 9-3-03; ELECT 8-2006, f. & cert. ef. 4-27-06; ELECT 16-2006, f. & cert. ef. 12-29-06; ELECT 7-2009, f. & cert. ef. 5-4-09

165-007-0270

Administrative Recounts

(1) The purpose of this rule is to establish a procedure for the conduct of administrative recounts of selected ballots following an election conducted in this state. The Secretary of State, as the chief elections officer for the State of Oregon, has the responsibility to adopt rules that the Secretary considers necessary to facilitate and

assist in achieving a maximum degree of correctness, impartiality and efficiency in administration of the election laws. This rule is intended to carry out that responsibility by providing a mechanism for selective recounts to confirm the accuracy of the automated vote tally systems used to count ballots.

(2) The Elections Division may, between the 20th and 23rd day after the election, direct the county elections official to conduct a recount of an office or measure, or portions of the votes cast for an office or measure, as selected by the Division. Administrative recounts ordered under this subsection shall be directed only when unanticipated circumstances at the election put the accuracy of the vote tally equipment used in the county in question. Any such recount shall be conducted in accordance with applicable procedures in ORS Chapter 258 and as stated by the Division in the order directing the recount. All recounts conducted under this rule shall be conducted by hand. Administrative recounts of tally machines ordered under this subsection shall be limited to no more than 1,000 ballots in any one county. A Division order to conduct an administrative recount shall include a procedure for counties that process ballots by batch, rather than precinct. The procedure for “batch counties” shall avoid requiring the county to conduct an administrative recount of a specific precinct. Counties that process ballots by hand will be required to conduct a hand count and a machine count of randomly selected ballots and compare the results. Notwithstanding 258.161, 258.280 and 258.290, the cost of conducting a recount under this rule shall be borne by the county in which the recount is conducted.

(3) Upon completion of the recount, and not later than 30 days after the election, the county elections official shall report on the results of the recount to the Division, together with any other information requested by the Division.

(4) A county elections official may choose to conduct an administrative recount of a selected office or measure and notify the Division of that decision in writing not later than the 23rd day after the election. In this event, the Division will not direct the county to conduct an administrative recount under the procedures of this rule. If the county elections official chooses to conduct an administrative recount under this section, the results of the recount must be reported to the Division not later than the 30th day after the election.

(5) The procedures described in this rule may be implemented only if a county is not required to conduct either an automatic recount under ORS 258.280 and 258.290 or a partial or full demand recount under 258.161. In the event that a recount under either of these procedures is commenced, any administrative recount is terminated.

(6) Recounts conducted under this rule shall not be used to alter the results obtained by the official tally of ballots, unless the procedures in ORS 258.161 are followed to make a demand for recount, either by a qualified person or the county elections official.

(7) For purposes of this rule, an “administrative recount” is a hand recount of selected offices or measures by hand to verify the accuracy of the vote tally equipment. It is not intended to provide a basis for changing the outcome of the results determined by the vote tally equipment, or to substitute for the procedures in state law for the conduct of automatic or demand recounts. Persons interested in challenging the vote tallies in particular races or measures must utilize the procedures in ORS 258.161 and 258.171 in order to have the results of the recount become the official returns.

Stat. Auth.: ORS 246.150
Stats. Implemented: ORS 258.150
Hist.: ELECT 8-2004, f. & cert. ef. 10-29-04

165-007-0280
Spanish Language Ballots

A county elections official may choose to prepare and make available an official ballot translated into Spanish for any election. If a county chooses to prepare and make available a Spanish language official ballot the following procedures must be followed:

(1) Not later than the 70th day before any election the county elections official must notify the Division in writing of the official’s decision to prepare and make ballots available in Spanish. The notice must include the method by which Spanish ballots will be made available to electors and the method by which those ballots voted and returned by 8pm on election night will be tallied.

(2) To guarantee consistency of translated material the county elections official must use the Secretary of State’s certified vendor for translation; and

(3) The cost of translation must be paid directly to the vendor by the county.

Stat. Auth.: ORS 246.150, 254.465, 254.470
Stats. Implemented: ORS 247 & 254
Hist.: ELECT 8-2005, f. & cert. ef. 12-14-05

165-007-0290
Hand Count of Ballots at General Election

(1) This rule is adopted to implement hand counts of ballots counted by the vote tally system in the county at every general election as required by ORS 254.529. The hand count must be compared to the tally of votes produced by a vote tally system for the same ballots. The number of ballots that must be hand counted is dependent on the margin of victory between the two candidates in the same race receiving the largest number of votes in the county, as determined by the unofficial tally of ballots. Depending on the margin of victory, which will be determined by the results posted to the Secretary of State’s electronic reporting system, ORESTAR, as of noon the day after the date of the general election, either 10%, 5% or 3% of all precincts or of ballots in ballot count batches will be hand counted.

(2) For purposes of implementing ORS 254.529 and this rule:

(a) “Margin of victory” means the percentage difference between the first and second place candidates in a given contest. For a contest for state measure the “margin of victory” is the difference between the “yes” and “no” votes.

(b) “Precinct” means any precinct with registered voters.

(c) “Ballot count batch” means a subset of ballots which can be associated with a subtotal in the vote tally system.

(3) In order to assist the Secretary in selecting the election contests for which ballots are to be hand counted, the Secretary shall appoint three members, one of whom will be an expert in statistics, to the Secretary of State’s Hand Count Advisory Committee.

(4) Not later than 5 p.m. of the third business day after the date of the general election the Committee shall randomly select the election contests for which the county elections official is to conduct the hand count. The Committee shall randomly draw for each county to select:

(a) An office to be voted on in the state at large and state measure contests for which ballots are to be hand counted; and

(b) The precincts or ballot count batches in which ballots are to be hand counted. The same precincts or ballot count batches will be used to conduct the hand counts on all three election contests to be hand counted.

(c) If the randomly selected office to be voted on in the state at large is the same contest in the county receiving the largest number of votes between two candidates, another office to be voted on in the state at large will be randomly selected.

(5) Once the Committee has randomly selected the election contests and the precincts or ballot count batches in which ballots are to be hand counted, the Secretary of State will notify county elections officials. In addition to identifying the precincts or ballot batches to be hand counted, the notification will include the office to be voted on in the state at large, the state measure and the contest between the two candidates receiving the largest number of votes in the county.

(6) Not later than the 5th business day after the date of the general election the Secretary of State will notify by first-class mail all affected candidates for selected election contests, chief petitioners or legislative sponsor of the state measure selected and any registered opponents of the measure.

(7) Members of the public may observe the hand count. The County Elections Official shall permit only so many persons as observers as will not interfere with an orderly procedure at the office of the County Elections Official.

(8) A county elections official may only begin the hand count after certification of the official results to the Secretary of State, but not later than the 21st day after the election. All hand counts must be completed no later than the 30th day after the election.

(9) If a comparison of the tally of votes produced by a vote tally system with the tally of votes produced by the hand count shows that

the tally of votes produced by the vote tally system differs by no more than one-half of one percent of the total votes cast in the contest, from the tally of votes produced by the hand count, the hand count is complete and the county elections official reports the results as provided in subsection (11). If the difference exceeds one-half of one percent of the total votes cast in the contest, a second hand count is conducted as provided in subsection (12).

(10) Valid votes that have been marked by the voter outside the vote targets or using a marking device that cannot be read by the vote tally system shall not be included in making the determination whether the voting system has met the standard of acceptable performance for any precinct or ballot batch under ORS 254.529(8)(a) through (c).

(11) Upon completion of the hand count, but not later than the 30th day after the election, the county elections official must submit to the Secretary of State form SEL 798 detailing any difference and providing an explanation of the difference between the hand count and the tally of votes produced by the vote tally system in the county. Over votes and under votes are excluded from the totals on the SEL 798. Valid votes referenced in (10) of this rule, are to be listed as exceptions on the SEL 798.

(12) If after the first hand count, a second hand count is required to be conducted, the county elections official must again upon completion, but not later than the 30th day after the election, submit to the Secretary of State form SEL 798 detailing any difference and providing an explanation of the difference between the hand count and the tally of votes produced by the vote tally system in the county.

(13) If the county elections official is required under ORS 254.529(8)(d) to conduct a hand count of all ballots counted by the vote tally system, the county elections official not later than the 30th day after the election must certify to the Secretary of State and any other appropriate elections official an amended abstract of votes.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 254.529

Hist.: ELECT 9-2008, f. & cert. ef. 10-23-08; ELECT 23-2009, f. & cert. ef. 12-31-09

165-007-0300

Facsimile Vote Secret Ballot Waiver Form

(1) The Secretary of State designates form SEL 531, Facsimile Vote Secret Ballot Waiver Form, as the form to be used by a long term absent elector who is serving in or has been discharged for not more than 30 days from the Armed Forces or the Merchant Marine when casting a ballot using a facsimile machine.

(2) The ballot will not be counted unless the completed SEL 531 is received in the office of the county clerk not later than 8 pm on the day of the election, accompanied by a return identification envelope, transmitted by facsimile, containing the signature of the elector and the signature is matched against the signature on the elector's most current voter registration card.

(3) County clerks shall incorporate into their Security Plan, required to be filed with the Secretary of State not later than January 31st of every year, methods for ensuring the secrecy of ballots cast using a facsimile machine to the greatest extent possible. Acceptable methods include but are not limited to:

(a) Using a separate dedicated facsimile machine with limited staff access;

(b) Assigning a dedicated employee to monitor the facsimile machine; or

(c) Adjusting the facsimile machine settings to store items until a set time, rather than automatically printing.

Stat. Auth.: ORS 246.150

Stats. Implemented: OL 2009 Ch. 619 (HB 2511)

Hist.: ELECT 18-2009, f. & cert. ef. 12-4-09

165-007-0310

County Elections Security Plan

(1) A security plan shall be submitted to the Secretary of State Elections Division, not later than the 31st of January of each year.

(2) Approved Security Plans will be valid from March 1 of each year through the last day of February of the following year.

(3) Any revisions to the plan must be submitted to the Secretary of State Elections Division not later than one business day after

the revision is made, and at least 30 days before the first election date at which the revisions are to be used.

(4) The security plan and all supporting documentation are confidential and not subject to public disclosure.

(5) All ballots must be secured from their inception into the county's computers, through final storage. This secure process must be followed through ballot reception, verification, inspection, scanning and tally of votes.

(6) The County Elections Official must include accountability procedures for ballots during the election process.

(7) During each phase of the process the County Elections Official must maintain an audit trail for all ballots, whether voted or unused.

(8) Copies of all security agreements with outside vendors must be submitted to the Secretary of State as part of the overall security plan.

(9) Upon receipt of the county security plan the Secretary of State Elections Division shall review the plan based upon the criteria in subsection (11).

(10) In order for a county to be permitted to scan ballots 7 days prior to the election pursuant to ORS 254.478, the county's security plan must be approved in writing by the Secretary of State Elections Division.

(11) The Security Plan must include the following components:

(a) Ballot security at the printer;

(b) Ballot storage security;

(c) Ballot security during transport to inserter (if applicable), to the county, or to the post office;

(d) Ballot security during insertion;

(e) Ballot security at dropsites;

(f) Security of voted ballots awaiting verification;

(g) Security of voted ballots verified and awaiting inspection;

(h) Security of voted ballots opened and inspected;

(i) Facsimile ballot security;

(j) Ballot tally system;

(k) Early scanning procedure (if applicable);

(l) Preventing the premature release of vote tally; and

(m) Post election security.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 254.074 & 2009 OL Ch. 592 (HB 2451)

Hist.: ELECT 24-2009, f. & cert. ef. 12-31-09

165-007-0320

Multiple Political Party Designations

(1) The purpose of this rule is to adopt procedures for candidates appearing on the General Election ballot who are nominated by multiple political parties.

(2) The three character designation of a political party shall be added opposite the name of the candidate. The political party designations are:

(a) Constitution Party — CON.

(b) Democratic Party of Oregon — DEM.

(c) Independent Party of Oregon — IND.

(d) Libertarian Party of Oregon — LBT.

(e) Pacific Green Party — PGP.

(f) Oregon Progressive Party — PRO.

(g) The Oregon Republican Party — REP.

(h) Working Families Party of Oregon — WFP.

(3) Political party designations selected by candidates nominated by multiple minor political parties will appear on the ballot opposite the name of the candidate in the following manner:

(a) For a candidate who is nominated by a political party of which the candidate is a member, that political party designation shall appear first, followed by the political party designations of not more than two minor political parties selected by the candidate arranged in accordance with the random ordering of the alphabet required under ORS 254.155;

(b) For a candidate who is a member of a political party, but who is not nominated by their political party, the political party designations of not more than three minor political parties selected by the candidate shall be arranged in accordance with the random ordering of the alphabet required under ORS 254.155; and

(c) For a candidate not affiliated with a political party who is nominated by an assembly of electors as prescribed in ORS 249.735, or nominated by individual electors as prescribed in 249.740, the three character designation for Nonaffiliated (NAV) shall appear first, followed by the political party designations of not more than three minor political parties selected by the candidate arranged in accordance with the random ordering of the alphabet required under 254.155.

(d) For purposes of the random ordering of the alphabet required under ORS 254.155, the three character designations are what will be ordered.

(4) A key, in alphabetical order, to the three character political party designations shall be printed on each side of the ballot on which a partisan race appears.

(5) A key, in alphabetical order, to the three character political party designations shall be printed on each pair of pages of the state voters' pamphlet in which a partisan candidate statement is printed.

(6) Political party designations selected by candidates nominated by multiple minor political parties as provided in section (3) will appear on the candidate statements printed in the state voters' pamphlet. These designations will not count toward the word limits for candidate statements.

(7) To accept multiple minor political party nominations, a candidate and state party officer completes and signs a Filing of Candidacy for Minor Political Party by Certificate of Nomination (SEL 110) and files it with the appropriate filing officer not later than the 70th day before the General Election as provided for in ORS 249.722.

(8) To withdraw from nomination a candidate must file a Withdrawal of Candidacy or Nomination (SEL 150) not later than the 67th day before the General Election.

(9) If a candidate submits more minor political party nominations than is allowed under ORS 254.135, every effort will be made by the filing officer to contact the candidate to secure a withdrawal to comply with the number of political party designations that may appear opposite a candidate's name. If the filing officer fails to contact the candidate by the 67th day before the General Election, the filing officer may only accept the number of nominations allowed under 254.135 based on the order the nominations were filed with the filing officer.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 254.135

Hist.: ELECT 4-2010, f. & cert. ef. 8-4-10

165-007-2012

Timelines for the Special Primary and Special Election to Fill a Vacancy in the Office of Representative in Congress, 1st District

(1) This rule adopts necessary timelines and procedures for the Secretary of State and county elections officials to conduct a special primary election and special election to fill the vacancy in the office of Representative in Congress, First District. This rule also adopts necessary timelines to produce a state voters' pamphlet for the special primary election and special election.

(2) When a document is to be filed with the Secretary of State, Elections Division under this rule, the document must be delivered to and actually received, in its entirety, in the office of the Secretary of State, Elections Division not later than 5:00 p.m. on the designated filing deadline date.

(3) The following timeline is adopted for a special primary election on November 8, 2011, as called by the Governor under ORS 188.120:

(a) August 15, 2011: Last day for major party political party to certify names of nominees to Secretary of State as required by ORS 188.120. Nominees must file a completed SEL 101, Filing of Candidacy for Major Political Party, no later than 5pm certifying that they have been a member of the indicated major political party for at least 180 days prior to the filing deadline.

(b) August 30, 2011: Last day for filing or withdrawing candidate statements for the state voters' pamphlet for the special primary election. Those candidates who choose to submit signatures by petition in lieu of paying the fee for printing a voters' pamphlet state-

ment must have the signatures verified by the appropriate county election official before submitting them to the Secretary of State.

(c) September 1, 2011: Last day for Secretary of State to complete random ordering of alphabet to determine placement of candidate names on special primary election ballot and to notify County Clerks of the random alphabet.

(d) September 8, 2011: Last day for Secretary of State to file with county clerks a statement of candidates for placement on special primary election ballot.

(e) September 24, 2011: Last day for county election officials to mail ballots to long term absent electors (overseas and military).

(f) October 18, 2011: Last day to register to vote or to change party affiliation for special primary election. Registration cards that are postmarked by this date or submitted online no later than 11:59 pm are valid registrations for the special primary election.

(g) October 21, 2011 thru October 25, 2011: County election officials mail ballots to electors other than long-term and out-of-state absent electors.

(h) October 25, 2011: Last day to distribute state voters' pamphlet.

(i) November 28, 2011: Last day for county clerk to prepare and deliver abstracts to the Secretary of State.

(j) November 30, 2011: Last day for Secretary of State to canvass votes, prepare register of nominations and deliver certificates of nomination.

(3) The following timeline is adopted for a special election on January 31, 2012, as called by the Governor under ORS 188.120:

(a) December 1, 2011:

(A) Last day for nonaffiliated or minor political party candidates to file certificates of nomination for the special election.

(B) Last day for candidates nominated by more than one political party to notify the Secretary of State of which nominations they choose to have printed on the ballot.

(C) Last day for Secretary of State to complete random ordering of alphabet to determine placement of candidate names on special election ballot.

(D) Last day for Secretary of State to file with county clerks a statement of candidates for placement on special election ballot.

(b) December 5, 2011 Last day for filing or withdrawing candidate statements for the state voters' pamphlet for the special election. Those candidates who choose to submit signatures by petition in lieu of paying the fee for printing a voters' pamphlet statement must have the signatures verified by the appropriate county election official before submitting them to the Secretary of State.

(c) December 17, 2011: Last day for county election officials to mail ballots to long term absent electors (overseas and military).

(d) January 10, 2012: Last day to register to vote for special election. Registration cards that are postmarked by this date or submitted online no later than 11:59 pm are valid registrations for the special election.

(e) January 13, 2012 to January 17, 2012: County election officials mail ballots to electors other than long-term and out-of-state absent electors.

(f) January 17, 2012: Last day to distribute state voters' pamphlet to each post office mailing address in Oregon.

(g) February 17, 2012: Last day for county clerk to prepare and deliver abstracts to the Secretary of State.

(h) February 21, 2012: Last day for Secretary of State to canvass votes, prepare register of nominations and deliver certificates of nomination.

(4) The following process is adopted for administering the cross nomination process set forth in ORS 254.135 and OAR 165-007-0320 for the January 31, 2012 special election only. OAR 165-007-0320 does not apply to this unique situation because it only applies to general elections, and not to special elections.

(a) The unique circumstances of this special election in the 1st Congressional District will allow each county to print the abbreviated name of each party who nominates a candidate beneath the name of the candidate. The abbreviated party names that will be printed on the ballot and in the voters' pamphlet for this January 31, 2012 special election are:

Constitution Party
 Democratic Party
 Independent Party
 Libertarian Party
 Nonaffiliated
 Pacific Green Party
 Progressive Party
 Republican Party
 Working Families Party

(b) Because there will only be one contest on the ballot, no county will be at risk of running over to a second ballot card due to their printing of abbreviated party names beneath the candidate name. Since abbreviated party names will be printed on the ballot and in the voters' pamphlet the key required by OAR 165-007-0320 will not be required.

(5) The following process is adopted for distributing the state voters' pamphlet prepared for the special primary election and special election to fill the vacancy in the office of Representative in Congress, First District.

(a) The voters' pamphlet that is prepared for the special primary election will be inserted with the ballots and mailed no later than October 25, 2011.

(b) The voters' pamphlet that is prepared for the special election will either be inserted with the ballots or mailed to each post-office mailing address in the First Congressional District, no later than January 17, 2012.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS

Hist.: ELECT 17-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ELECT 18-2011(Temp), f. & cert. ef. 9-26-11 thru 2-19-12

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.

Stat. Auth.: ORS 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 16 — Publish a draft reapportionment plan; distribute to the public;

(b) July 16–August 3 — Accept written comments from the public;

(c) July 20–August 3 — Conduct one or more public hearings at locations to be announced;

(d) August 4–15 — Complete transcription of 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 188.015

Stats. Implemented: ORS 188.015

Hist.: ELECT 37-1990, f. & cert. ef. 10-18-90; ELECT 12-2001, f. & cert. ef. 5-7-01; ELECT 17-2001, f. & cert. ef. 7-3-01

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) October 1 — Publish a corrected reapportionment plan; distribute to public;

(c) October 1–October 19 — Accept written comments from the public;

(d) October 8–19 — 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 20–31 — Complete transcription of 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 188.015

Stats. Implemented: ORS 188.015

Hist.: ELECT 37-1990, f. & cert. ef. 10-18-90; ELECT 12-2001, f. & cert. ef. 5-7-01

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, or the Secretary's designee 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 five minutes.

Stat. Auth.: ORS 188.015

Stats. Implemented: ORS 188.015

Hist.: ELECT 37-1990, f. & cert. ef. 10-18-90; ELECT 12-2001, f. & cert. ef. 5-7-01

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 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 188.015

Stats. Implemented: ORS 188.015

Hist.: ELECT 37-1990, f. & cert. ef. 10-18-90; ELECT 18-2001(Temp), f. & cert. ef. 8-2-01 thru 8-3-01; Administrative correction 11-15-01

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 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 188.015
 Stats. Implemented: ORS 188.015
 Hist.: ELECT 37-1990, f. & cert. ef. 10-18-90

DIVISION 10

CANDIDATES AND POLITICAL PARTIES

165-010-0005

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

(1) The Secretary of State designates the *2010 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.

(2) The Secretary of State designates the *2010 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.

(3) The Secretary of State designates the *2010 State Candidate's Manual: Minor Political Party* and associated forms as the procedures and forms to be used to form a Minor Political Party and by minor political party candidates filing and running for state elective office.

(4) The Secretary of State designates the *2010 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.

(5) The Secretary of State designates the *2010 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.

(6) The Secretary of State designates the *2010 County Candidate's Manual* and associated forms as the procedures and forms to be used by county office candidates and precinct committee person candidates filing and running for elective office.

(7) In accordance with ORS 260.043 the Secretary of State amends the *2010 State Candidate's Manual: Major Political Party*, the *2010 State Candidate's Manual: Nonpartisan*, the *2010 State Candidate's Manual: Minor Political Party*, the *2010 State Candidate's Manual: Assembly of Electors*, the *2010 State Candidate's Manual: Individual Electors*, the *2010 County Candidate's Manual* and all associated forms to reference that when a candidate serves as the candidate's own treasurer, the candidate does not have an existing candidate committee and the candidate does not expect to receive or spend more than \$750 during a calendar year, the candidate is not required to establish a campaign account, file a State of Organization or file contribution and expenditure transactions.

(8) In accordance with ORS 248.008 and 260.569 the Secretary of State amends the *2010 State Candidate's Manual: Minor Political Party*, to require a chief sponsor of a minor political party formation petition to file an SEL 300 Statement One or More Petition Circulators Will Be Paid indicating whether circulators will be paid or unpaid when filing the prospective petition.

[Publications: Publications referenced 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; ELECT 3-1998, f. & cert. ef. 2-11-98; ELECT 6-1998, f. & cert. ef. 5-8-98; ELECT 10-1999, f. & cert. ef. 10-18-99; ELECT 3-2002, f. & cert. ef. 3-13-02; ELECT 18-2003, f. & cert. ef. 12-5-03; ELECT 2-2004(Temp), f. & cert. ef. 4-9-04 thru 10-6-04; Administrative correction 10-22-04; ELECT 9-2005, f. & cert. ef. 12-14-05; ELECT 11-2007, f. & cert. ef. 12-31-07; ELECT 25-2009, f. & cert. ef. 12-31-09; ELECT 1-2011, f. & cert. ef. 2-4-11; ELECT 16-2011(Temp), f. & cert. ef. 8-16-11 thru 12-31-11

165-010-0060

Procedure for Conduct of Meeting to Fill Vacancy in Legislative Assembly

The following procedures govern the conduct of a meeting of a county court or board of commissioners (hereafter, county governing body(ies)) to fill a vacancy in the Legislative Assembly. These meeting procedures apply to appointments made under either ORS 171.060(1) (vacancy to be filled by nominee affiliated with a major political party) or 171.060(2) (vacancy need not be filled by member of a particular major political party).

(1) A meeting of the members of the county governing body(ies) shall convene at the time designated by the Secretary of State. If the legislative district includes more than one county, the Secretary of State shall also name the temporary chairperson for the meeting and designate its location, which shall be within the legislative district. The Secretary of State shall also notify the county governing body(ies) of the nominees and of the number of votes apportioned to each member of the county governing body(ies) under ORS 171.062 and 171.064.

(2) The chairperson conducting the meeting shall open the meeting at the time designated by the Secretary of State. The chairperson shall announce that the purpose of the meeting is to appoint a person to fill the vacancy in the Legislative Assembly. If applicable, the appointment will be made from the list of nominees from the major political party as furnished by the Secretary of State.

(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 or applicants 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).

(6) The Secretary of State hereby adopts forms SEL 145a, Statement of Democratic Nominee's Willingness to Serve, and SEL 145b,

Statement of Republican Nominee's Willingness to Serve, as the forms to be used to accept a nomination to fill a legislative vacancy.

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; ELECT 10-1999, f. & cert. ef. 10-18-99; ELECT 18-2003, f. & cert. ef. 12-5-03

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 be used to accept 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;
- (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 and optional space for fax number, email address and/or web address;
- (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: Forms referenced are available from the agency.]
 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; ELECT 18-2003, f. & cert. ef. 12-5-03

165-010-0085

Democratic Nominee's Willingness to Serve (SEL 145a) and Republican Nominee's Willingness to Serve (145b)

The Secretary of State hereby adopts by reference and designates the SEL 145a as the form to be used by a Democratic nominee to indicate their willingness to serve if appointed to fill a legislative vacancy. The SEL 145b is adopted by reference as the form to be used by a Republican nominee to indicate their willingness to serve if appointed to fill a legislative vacancy. Both forms shall contain:

- (1) Nominee's name;
- (2) Office and district number, if any, for which candidate would accept appointment;
- (3) Candidate's residence address;
- (4) Candidate's home and work telephone numbers;
- (5) Mailing address where all correspondence will be sent;
- (6) Statement that candidate will accept appointment; and
- (7) Candidate's signature and date signed.

[ED. NOTE: The form(s) referred to or incorporated by reference in this rule are available from the agency.]
 Stats. Auth.: ORS 246.150
 Stats. Implemented: ORS 171.060
 Hist.: ELECT 12-2007, f. & cert. ef. 12-31-07

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.

Stat. Auth.: ORS 246.150 & 254.155
 Stats. Implemented: ORS 245.155
 Hist.: ELECT 4-1994, f. & cert. ef. 3-31-94; ELECT 18-2003, f. & cert. ef. 12-5-03

165-010-0110

Filling Vacancy in Nomination to Nonpartisan Office or Vacancy in Nonpartisan Office

(1) The purpose of this rule is to specify the period within which a candidate for a nonpartisan office may file a declaration of candidacy or nominating petition. This rule applies when the only candidate nominated to a nonpartisan office dies, withdraws or becomes ineligible, or if a vacancy occurs in the nonpartisan office after the 70th day before the nominating election and on or before the 62nd day before the general election.

(2) If the vacancy in nomination or vacancy in nonpartisan office occurs between the 70th day before the nominating election and the 80th day before the general election, a declaration of candidacy or nominating petition, for nonpartisan office, may be filed no sooner than 5 business days after the vacancy occurs and no later than the 70th day before the general election.

(3) If the vacancy in nomination or vacancy in nonpartisan office occurs after the 80th day before the general election, but on or before the 62nd day before the election the deadline for filing nominating petitions or declarations of candidacy will be specified in a separate rule for that vacancy.

Stat. Auth.: ORS 246.150 & 249.205
 Stats. Implemented: ORS 249.205
 Hist.: ELECT 5-2004, f. & cert. ef. 6-11-04; ELECT 7-2008, f. & cert. ef. 8-12-08

DIVISION 12

CAMPAIGN FINANCE REGULATIONS

165-012-0005

Designating the Campaign Finance Manual and Forms; Late Penalty Matrix

(1) Pursuant to ORS 260.156, the Secretary of State designates the 2010 Campaign Finance Manual and associated forms as the procedures and guidelines to be used for compliance with Oregon campaign finance regulations.

Chapter 165 Secretary of State, Elections Division

(2) The following amendments to the 2010 Campaign Finance Manual will apply to all ORESTAR late and insufficient penalty cases under ORS 260.232. The amendments to this rule with the exception of sections (7) and (9) go into effect upon the adoption of this rule. Sections (7), (9) and (12) apply to late or insufficient cases occurring May 2011 forward.

(3) Pg 64 right column, replace all paragraphs under the heading Late and Insufficient Penalty Cases (ORS 260.232) with the following:

(a) If the Secretary of State determines that a committee is in violation of Oregon election law for a late or insufficient filing, the treasurer, and candidate, if applicable, of the committee is sent a notice of proposed civil penalty (the charging document) that informs them of the potential civil penalty and provides them with an opportunity to request a hearing. This notice is sent by both certified and regular mail to the committee treasurer or, in the case of a candidate committee, by both certified and regular mail to the candidate with a copy by regular mail to the treasurer, and correspondence recipient, if applicable.

(b) Late and insufficient violations will be processed by calendar month. Each case for a given month will include late violations (transactions that are filed late in that particular month) and insufficient violations (transactions that are not sufficiently corrected by the exam response due date in that particular month.)

(c) For example, a transaction is due on April 15, 2009. The transaction isn't filed until May 1, 2009. This violation will be part of the May case.

(d) A transaction is identified as insufficient on an exam letter, with a response due date of May 10, 2009. The transactions isn't corrected until May 15, 2009, this violation will also be part of the May case.

(e) If the total calculated penalty for a case is less than \$50, a proposed penalty will not be issued and there will be no violation found.

(f) If a person is not going to contest the proposed penalty, payment may be made payable to the Secretary of State and mailed to the Elections Division prior to the issuance of a default final order or not later than 60 days after the default final order is issued.

(4) Pg 65 left column, replace all language beginning with heading Request for Hearing through the language under the heading Hearing by Telephone located in the right column with the following:

(a) **STEP ONE: RESPONDING TO PROPOSED PENALTY NOTICE**

(A) When a person receives a proposed penalty notice, they can either pay the penalty, or contest the charges by submitting notarized testimony in lieu of a hearing or requesting an in person or telephone hearing.

(B) To pay the penalty the following must occur:

(i) Payment is made payable to the Secretary of State.

(ii) Payment may be mailed to the Elections Division prior to the issuance of the default final order, at any time after the proposed penalty notice is issued.

(iii) Payment must be received not later than 60 days after the default final order is issued.

(iv) If necessary, the person may contact the Elections Division at 503-986-1518 to discuss payment plan options.

(C) To submit notarized testimony in lieu of an in person or telephone hearing to contest the case the following must occur:

(i) The person must submit a signed Hearing Request Form and an answer to the violations within 20 days of the receipt of the certified mail notice of proposed civil penalty. If the certified letter is refused or left unclaimed at the post office, the 20 day period begins on the day the post office indicates it has given first notice of the certified letter.

(ii) The answer must include an admission or denial of each factual matter alleged in the proposed penalty notice.

(iii) The answer must identify any mitigating circumstance that applies and indicate specifically what facts or transactions the mitigating circumstance applies to.

(iv) If the person has evidence of a mitigating circumstance, or other relevant evidence, this can be submitted with the answer as exhibits.

(v) Except for good cause shown to the administrative law judge, factual matters alleged in the penalty notice and not denied in the answer will be deemed admitted by the party.

(vi) The testimony must be notarized by a licensed Notary Public.

(vii) A worksheet is available on the back of the Hearing Request Form and may be used to complete the answer. Additional copies may be obtained by emailing your request to elec-hearings@sos.state.or.us or by contacting the Elections Division at 503-986-1518.

(viii) The testimony may be mailed to the Elections Division at 255 Capitol St NE, Ste 501, Salem OR 97310 or may be faxed to 503-373-7414.

(D) To request an in person or telephone hearing to contest the case the following must occur:

(i) The person must submit a signed Hearing Request Form and an answer to the violations within 20 days of the receipt of the certified mail notice of proposed civil penalty. If the certified letter is refused or left unclaimed at the post office, the 20 day period begins on the day the post office indicates it has given first notice of a certified letter.

(ii) The person must elect whether or not they want the hearing by telephone or in person on the Hearing Request Form, and sign where indicated.

(iii) The answer must include an admission or denial of each factual matter alleged in the proposed penalty notice.

(iv) The answer must identify any mitigating circumstance that applies and indicate specifically what facts or transactions the mitigating circumstance applies to.

(v) If the person has evidence of a mitigating circumstance, or other relevant evidence, this can be submitted with the answer as exhibits.

(vi) Except for good cause shown to the administrative law judge, factual matters alleged in the penalty notice and not denied in the answer will be deemed admitted by the party.

(b) **STEP TWO: CONTESTED CASE PROCESS** If a person submits the Hearing Request Form, the hearing will be conducted by an administrative law judge with the Office of Administrative Hearings through one of the following processes:

(A) **NOTARIZED TESTIMONY PROCESS** If the person has timely submitted the signed Hearing Form designating the submission of notarized testimony, the Elections Division will refer the case and forward the person's notarized testimony to the Office of Administrative Hearings. The following process then applies:

(i) When the Elections Division Submits Testimony The Elections Division may submit notarized testimony (and any exhibits) to the Office of Administrative Hearings and to the person that filed the notarized testimony. The Elections Division's notarized testimony will be sent via email to the email address provided on the request form. The Secretary of State, Elections Division may mail its notarized testimony to the party's last known address if the party's email address is unknown or does not accept the Secretary of State's email.

(ii) **Opportunity for Rebuttal Testimony** The person may, but is not required to, respond to the Elections Division testimony by submitting rebuttal notarized testimony. The rebuttal testimony is limited to issues raised in the person's original testimony and the Elections Division's testimony. The rebuttal testimony must be received not later than five business days from the date of service of the Division's testimony (the date the testimony was emailed or mailed). The notarized testimony "hearing" is deemed closed the day after the deadline for the person to submit rebuttal testimony.

(B) **IN PERSON OR TELEPHONE HEARING PROCESS** If the person has timely submitted the signed Hearing Form designating an in person or telephone hearing, the following process applies:

(i) **Scheduling a Hearing** The Elections Division will refer the hearing request, including the party's answer and hearing request form, to the Office of Administrative Hearings. The Office of Administrative Hearings will schedule a hearing not later than 45 days after

the deadline for requesting a hearing. A 15 day extension may be granted if requested in writing by the person subject to the civil penalty.

(ii) Submitting Exhibits Not less than five business days prior to the commencement of the hearing, each party, including the Elections Division, must deliver copies of the exhibits it intends to offer into evidence at the hearing. Exhibits must be delivered to the Administrative Law Judge, all parties, and the Elections Division. Delivery of the exhibits may be accomplished by any of the following means, or by other means of similar nature: Hand delivery; First class or certified mail; Facsimile; Professional delivery service; or Emailed in a pdf format to elec-hearings@sos.state.or.us. Nothing precludes any party or the Elections Division from seeking to introduce documentary evidence in addition to evidence described above during a telephone or in person hearing. The Administrative Law Judge shall receive such evidence, subject to the applicable rules of evidence, only if inclusion of the evidence in the record is necessary to conduct a full and fair hearing.

(iii) Conduct of In Person or Telephone Hearing If the hearing is in person, it will be conducted at the time scheduled and held in a hearing room at the Office of Administrative Hearings in Salem. If the hearing is by telephone, the parties will call the phone number provided in the Notice of Hearing sent by the Office of Administrative Hearings. The hearing will be presided over by an Administrative Law Judge. The Administrative Law Judge will describe the hearing process at the beginning of each hearing. The parties will then be given the opportunity to give opening statements, present and examine witnesses, and give closing statements.

(iv) Opportunity to Opt Out of In Person or Telephone Hearing If a person requests an in person or telephone hearing and the hearing is scheduled by the Office of Administrative Hearings, then subsequently decides they do not want to appear at the hearing, but still wants to contest the penalty, the person may submit notarized testimony and other evidence for entry into the hearing record before the Administrative Law Judge. The Elections Division must receive the testimony no later than three business days before the day of the scheduled hearing. The Elections Division may submit notarized testimony. The testimony must be received by the Office of Administrative Hearings not later than 5:00 pm on the hearing scheduled date. If the Elections Division does not submit notarized testimony, the Agency file will become a part of the case file and establish the basis for liability. This process is separate and distinct from the Notarized Testimony process discussed above and applies only when a party requests an in person or telephone hearing and later decides not to appear at the hearing and instead provide notarized testimony and evidence.

(c) STEP THREE: PROPOSED AND FINAL ORDERS

(A) Proposed Order After the hearing is closed, the Office of Administrative Hearings sends the treasurer, candidate, and the Elections Division the administrative law judge's proposed order. The administrative law judge's proposed order will provide a deadline to file written exceptions to the proposed order. If the Elections Division chooses to amend the proposed order issued by the administrative law judge, the Elections Division will send an amended proposed order which will provide a deadline to file written exceptions to the amended proposed order.

(B) Final Order After reviewing and considering the written exceptions, the Elections Division will issue a final order no later than 90 days after the hearing is closed. If the order imposes a civil penalty, the party has 60 days to pay the penalty or file an appeal. If necessary, the person may contact the Elections Division at 503-986-1518 to discuss payment plan options.

(d) Judicial Review of a Final or Default Order After the issuance of a final order or default final order, a candidate or treasurer is entitled to judicial review of the order. Judicial review may be obtained by filing a petition for review with the Oregon Court of Appeals within 60 days of the service date of the order.

(5) Page 65 right column, under heading Mitigating Circumstances, replace the first paragraph with the following: If an in person, telephone or notarized testimony hearing is requested and testimony is provided regarding the mitigating circumstance that

directly caused the late or insufficient filing, the Administrative Law Judge and the Secretary of State may consider reducing in whole or in part, the civil penalty, based on the facts presented by the testimony.

(6) Page 66 right column, delete all language under headings Final Order and Default Final Order.

(7) Page 67 left column under the heading Penalties for Late Transactions, replace the paragraph with: The treasurer responsible for a late filed transaction is the treasurer of record at the time the transaction is due. The liability for the civil penalty remains with the treasurer, and the candidate, if applicable, even if the late transaction is filed by the designated alternate transaction filer.(8) Page 68 left column under the heading Penalty Matrix Late Filings should be replaced with the following: Penalties may be assessed for any contribution or expenditure transaction that is filed late or any cash balance adjustment transaction. A transaction is considered late in any of the following circumstances:

(a) A transaction is not filed by the due date for the transaction;

(b) A change is made to the name of the contributor or payee after the transaction due date, resulting in an entirely different contributor or payee being associated with the transaction (the transaction is considered late from the transaction due date to the date the amended transaction changing the contributor or payee is filed);

(c) A change is made to the date of the transaction resulting in a due date that is prior to the date the transaction was originally filed (the transaction is considered late from the date the transaction should have been filed to the date the transaction was originally filed);

(d) A change (increase or decrease) is made to the amount of a previously reported transaction after the transaction due date (the amount of the change is late from the transaction due date to the date the amended transaction changing the amount is filed) no penalty will be imposed for a change in the amount of an expenditure made by an agent transaction;

(e) A previously reported transaction is deleted after the transaction due date (the transaction is considered late from the transaction due date to the date the transaction deletion is filed);

(f) A cash balance adjustment transaction is filed because the committee is unable to reconcile the calculated cash balance based on transactions filed with the Secretary of State with the committee's bank balance; or

(g) The transaction type is amended from any transaction type other than a contribution or expenditure to a contribution or expenditure, and the original transaction was filed after the deadline (the transaction is considered late from the transaction due date to the date the original transaction is filed).

(9) Page 71 under the heading Maximum Penalties should be replaced with the following:

(a) The maximum penalty for each late transaction, except for a change in a transaction amount, is 10% of the amount of the transaction. The maximum penalty for a change in a transaction amount is 10% of the net change or 10% of the current transaction amount, whichever is less.

(b) The maximum penalty for a late Certificate of Limited Contributions and Expenditures is \$100.

(c) The maximum penalty for each cash balance adjustment is 10% of the amount of the transaction.

(d) The maximum penalty for a late Statement of Independent Expenditures (form PC 10) is 10% of the total amount reported on form PC 10.

(10) Page 71 right column under the heading Penalties should be replaced with the following:

(a) For all missing or insufficient items, other than those listed below: **\$10 per item;**

(b) Failure to provide the terms of a loan: **1% of the loan;**

(c) Omitted or insufficient information submitted after the amendment deadline but prior to the deadline for a candidate or treasurer to request a hearing will result in a 50% per item reduction of the penalty, if the information is deemed sufficient. If a public hearing is requested, the omitted or insufficient information may be sub-

mitted up to the date of the hearing and if deemed sufficient will result in a 50% per item reduction of the penalty.

(11) Amend all references in the 2010 Campaign Finance Manual regarding the requirement for a candidate to file a candidate committee from \$350 to \$750, including Pages 13, 41, 59 and form SEL 220, Statement of Organization for Candidate Committee.

(12) Page 70 under the heading Maximum Penalties should be replaced with the following:

(a) The maximum penalty for each late transaction, except for a change in a transaction amount, is 10% of the amount of the transaction. The maximum penalty for a change in a transaction amount is 10% of the change in amount.

[Publications: Publications and Forms referenced are available from the agency.]
 Stat. Auth.: ORS 246.120, 246.150, 260.156 & 260.200
 Stats. Implemented: ORS 246.120, 246.150, 260.156 & 260.200
 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; ELECT 15-1997, f. & cert. ef. 12-31-97; ELECT 5-1998, f. & cert. ef. 2-26-98; ELECT 8-1998, f. & cert. ef. 6-2-98; ELECT 9-1998, f. & cert. ef. 9-11-98; ELECT 13-1998(Temp), f. & cert. ef. 12-15-98 thru 6-13-99; ELECT 2-1999(Temp), f. & cert. ef. 1-15-99 thru 7-14-99; ELECT 3-1999, f. & cert. ef. 3-1-99; ELECT 1-2000, f. & cert. ef. 1-3-00; ELECT 3-2002, f. & cert. ef. 3-13-02; ELECT 23-2003, f. & cert. ef. 12-12-03; ELECT 13-2005, f. & cert. ef. 12-30-05; ELECT 1-2007, f. & cert. ef. 1-5-07; ELECT 2-2007(Temp), f. & cert. ef. 5-2-07 thru 10-29-07; ELECT 4-2007(Temp), f. & cert. ef. 7-16-07 thru 12-31-07; ELECT 13-2007, f. & cert. ef. 12-31-07; ELECT 8-2009, f. & cert. ef. 5-4-09; ELECT 16-2009, f. & cert. ef. 7-30-09; ELECT 27-2009, f. & cert. ef. 12-31-09; ELECT 3-2010, f. & cert. ef. 4-22-10; ELECT 8-2011, f. & cert. ef. 4-8-11; ELECT 12-2011, f. & cert. ef. 7-12-11; ELECT 21-2011(Temp), f. & cert. ef. 9-30-11 thru 12-30-11

165-012-0050

Contribution of Polls, Allocation of Polling Expenses

(1) The purpose of this rule is to establish procedures for reporting the contribution of poll results, the allocation of polling expenses, 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) "Committee" refers to all candidates/candidate committees, measure committees, political party committees, miscellaneous committees, petition committees or an agent of a committee.

(b) "Contributor" means a purchaser of a poll or agent who gives the poll results to one or more nonpurchaser candidates or nonpurchaser committees.

(c) "Date of purchase" means the date that a person pays for a poll.

(d) "Person" includes an agent of the person.

(e) "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.

(f) "Purchaser" means a person or committee that requests or otherwise commissions and pays for a poll.

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

(h) "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 committee is an expenditure by the committee.

(5) The acceptance of the results of a poll that have a value under section 9 of this rule by a committee is an in-kind contribution by the contributor and an in-kind expenditure in the amount determined under sections 8 and 9 of this rule and must be reported by:

(a) The recipient committee; and

(b) If the contributor is required to file statements of contributions received and expenditures made under ORS 260.057, 260.076, 260.112 or 260.118, the contributor.

(6) A committee accepts the results of a poll if the 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 poll shall determine:

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

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

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

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

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

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

(b) A poll shall have no value to any recipient committee if the poll is released (prior to or simultaneously with delivery to a candidate covered in the poll or any 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 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 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) One to 15 days after the closing day, 100 percent of the:

(i) Recipient candidate committee's base amount of in-kind contribution for a poll calculated under section 8(b) of this rule;

(ii) Overall cost of a poll for all other recipient committees.

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

(i) Recipient candidate committee's base amount of in-kind contribution for a poll calculated under section 8(b) of this rule; or

(ii) Overall cost of a poll for all other recipient committees.

(C) Sixty one to 180 days after the closing day, five percent of the:

(i) Recipient candidate committee's base amount of in-kind contribution for a poll calculated under section (8)(b) of this rule; or

(ii) Overall cost of a poll for all other recipient committees.

(D) More than 180 days after the closing day, no value to the recipient committee.

(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 committee. "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 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 committee.

Stat. Auth.: ORS 246.150 & 260.156
 Stats. Implemented: ORS 260.083

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; ELECT 19-2003, f. & cert. ef. 12-5-03; ELECT 15-2006, f. & cert. ef. 12-29-06; ELECT 28-2009, f. & cert. ef. 12-31-09

165-012-0060

Slate Mailer Organizations

(1) Under ORS 260.737(2) and (4), 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; ELECT 19-2003, f. & cert. ef. 12-5-03

165-012-0240

Administrative Discontinuation of a Political Committee

(1) The Elections Division may administratively discontinue a political committee when:

(a) The committee has not filed any transactions under ORS 260.057 for one calendar year; and

(b) The committee's ending cash balance reflected in ORESTAR is not more than \$2000.

(2) Not later than 30 days before administratively discontinuing a committee under this section, the Elections Division shall attempt to notify the committee of the proposed discontinuation.

(a) For a candidate committee:

(A) By certified mail sent to the mailing address reported on the most recent Statement of Organization for the candidate and by first class mail to the most recent mailing address for the candidate reported in the Oregon Centralized Voter Registration System; and

(B) By first class mail to the mailing address reported on the most recent Statement of Organization for the treasurer, if applicable.

(b) For a political committee notice will be sent by certified mail sent to the mailing address reported on the most recent Statement of Organization for the treasurer and by first class mail to the most recent mailing address for the treasurer reported in the Oregon Centralized Voter Registration System.

(3) The notice shall inform the committee that it will be discontinued by the Elections Division unless the committee informs the

Elections Division of reasons why the committee does not meet the criteria of this rule for administrative discontinuation. The committee must inform the Elections Division of the reasons not later than the 20th day after the recipient signs for the certified notice. However, if the certified notice is refused or left unclaimed at the post office, the 20-day period begins on the day the post office indicates it has given first notice of the certified letter. The written notice shall also include:

(a) Notification that the statement of organization will be administratively discontinued 30 days from the date of the letter; and

(b) The applicable reasons for discontinuation listed in subsection (1) of this section.

Stat. Auth.: ORS 246.150, 260.046

Stats. Implemented: ORS 260.046

Hist.: ELECT 14-2005, f. & cert. ef. 12-30-05; ELECT 6-2007, f. & cert. ef. 8-27-07; ELECT 29-2009, f. & cert. ef. 12-31-09

DIVISION 13

ELECTION OFFENSES

165-013-0010

Penalty Matrix for Other Campaign Finance Violations

(1) This penalty matrix applies to civil penalties for campaign finance violations not covered by the penalty matrices in the Campaign Finance Manual.

(2)(a) Spot Check Review. The Secretary of State, Elections Division, will hold exempt from disclosure as a public record any bank account number(s), credit card number(s) or social security number(s) received as required documentation in response to a request for documentation necessary to perform a spot check review in accordance with ORS 260.215(3).

(b) If a committee fails to provide documentation or provides insufficient documentation in response to a request for documentation necessary to perform a spot check review, each omitted or insufficient item is a violation of ORS 260.055(3).

(c) If the committee fails to provide sufficient documentation for a transaction by the deadline stated in the first spot check review letter, the Elections Division shall send a second review letter notifying the committee which transaction(s) lack sufficient documentation. The second review letter shall provide the committee a deadline for response.

(d) Omitted or insufficient information submitted after the deadline provided in the second review letter, but prior to the deadline for a candidate or treasurer to request a hearing will result in a 50% per item reduction of the penalty. If a public hearing is requested, the omitted or insufficient documentation may be submitted up to the date of the hearing. In such an event, the candidate or treasurer will be entitled to a 50% per item reduction of the assessed penalty.

(e) The candidate or treasurer of record at the time the first spot check review letter is generated, along with the candidate if applicable, is responsible for submitting documentation for all transactions selected in the spot check review.

(f) For the purpose of imposing a civil penalty for a violation of ORS 260.055(3), the candidate of the principal campaign committee; and the treasurer of a political or petition committee are the parties responsible for the payment of any civil penalty.

(3) Mitigating Circumstances. Except as specifically provided in paragraph (2)(d), the only mitigating circumstances that will be considered in a campaign finance violation covered by this rule include:

(a) The violation is a direct result of a valid personal emergency of the candidate or treasurer. A valid personal emergency is an emergency, such as a serious personal illness or death in the immediate family of the candidate or treasurer which caused the violation to occur. Personal emergency does not include a common cold or flu, or a long-term illness where other arrangements could have been made. In this case, independent written verification must be provided;

(b) The violation is the direct result of an error by the elections filing officer;

(c) The violation is the direct result of clearly-established fraud, embezzlement, or other criminal activity against the committee,

committee treasurer or candidate, as determined in a criminal or civil action in a court of law or independently corroborated by a report of a law enforcement agency or insurer or the sworn testimony or affidavit of an accountant or bookkeeper or the person who actually engaged in the criminal activity;

(d) The violation is the direct result of fire, flood or other calamitous event, resulting in physical destruction of, or inaccessibility to, committee records. (“Calamitous event” means a phenomenon of an exceptional character, the effects of which could not have been reasonably prevented or avoided by the exercise of due care or foresight);

(e) The violation is the direct result of failure of a professional delivery service to deliver documents in the time guaranteed for delivery by written receipt of the service provider (this does not include delivery by fax); or

(f) The violation is the direct result of negligent record keeping by a former treasurer. Former treasurer refers to the person who was the treasurer of record at the time the transaction was filed or should have been filed.

(4)(a) Penalty Matrix. These mitigating circumstances may be considered in reducing, in whole or in part, the civil penalty. If the violation is a direct result of an error by the elections filing officer, the violation is waived and no penalty is assessed.

(b) Omitted or insufficient information for a violation of ORS 260.039(4), 260.042(4) or 260.118(3) submitted prior to the deadline for a candidate or treasurer to request a hearing will result in a 50% reduction of the penalty. If a public hearing is requested, the omitted or insufficient information may be submitted up to the date of the hearing. In such an event, the candidate or treasurer will be entitled to a 50% reduction of the assessed penalty.

(c) For purposes of determining penalty amounts for violations of campaign finance violations covered by this rule Appendix A of this rule will apply. [Appendix not included. See ED. NOTE.]

[ED. NOTE: Appendix referenced is available from the agency.]
 Stat. Auth.: ORS 246.150, 260.200
 Stats. Implemented: ORS 260.200, 260.215, 260.232, 260.995
 Hist.: ELECT 13-2000, f. 7-31-00, cert. ef. 8-4-00; ELECT 22-2003, f. & cert. ef. 12-5-03; ELECT 1-2004, f. & cert. ef. 2-13-04; ELECT 16-2005, f. & cert. ef. 12-30-05; ELECT 10-2006(Temp), f. & cert. ef. 7-6-06 thru 1-2-07; ELECT 17-2006, f. & cert. ef. 12-29-06; ELECT 14-2007, f. & cert. ef. 12-31-07; ELECT 30-2009, f. & cert. ef. 12-31-09; ELECT 9-2011, f. & cert. ef. 4-8-11

165-013-0020

Penalty Matrix for Non-Campaign Finance Civil Penalty Election Law Violations

(1)(a) This penalty matrix applies to civil penalties for violations of election laws that are not covered by the penalty matrices in the Campaign Finance Manual (late and insufficient campaign finance reports and new transactions to campaign finance reports), or other campaign finance violations as outlined in 165-013-0010.

(b) The penalty amount will be calculated against the same person, candidate or entity as described below for a period of four years from the date the violation occurs, for any election law violation, other than campaign finance violations covered in the penalty matrices in the Campaign Finance Manual and other campaign finance violations as outlined in 165-013-0010. In determining whether the offense is to be considered against the same person, candidate or entity, the following factors are to be considered:

(A) A person is considered the same candidate, regardless of the office(s) for which the person runs within this state, or whether there is a lapse in time between candidacies.

(B) A political committee is considered the same, regardless of who the treasurer is, or if the political committee has changed names but is established by the same group of persons.

(C) The same individual.

(D) One occurrence is considered one violation.

(E) Notwithstanding (F) or (G), if a violation is the first on record for the person, and multiple occurrences of the same statutory provision are described in an election law complaint, the occurrences will be combined (to be considered as one violation) and considered a first violation of the statutory provision, except in such cases where specific circumstances warrant separating the occurrences to impose fines for each violation. This would be appropriate

when different persons were affected by the election law offense. Each subsequent occurrence of violation of the same statutory provision after the issuance of a notification letter or a determination of election law violation, within the four-year cycle, may be considered as separate violations.

(F) Violations of Article IV, Section (1)(b) will be calculated by deeming each individual signature sheet that contains signatures that were collected in violation of Section (1)(b) as a single occurrence with a minimum civil penalty of \$2,500.

(G) Violations of ORS 260.569, will be calculated by deeming each individual signature sheet that contains a signature a violation of 260.569 or each signed voter registration card in violation of 260.569 as a single occurrence with a minimum civil penalty of \$100.

(2) Mitigating Circumstances: The burden is on the person alleged to have committed the election law violation to show that a mitigating circumstance exists and caused the election law violation. The only mitigating circumstances which will be considered, if applicable to the specific situation, include:

(a) The violation is a direct result of a valid personal emergency of the involved person(s). A valid personal emergency is an emergency such as a serious personal illness or death in the immediate family of the involved person(s). Personal emergency does not include a common cold or flu, or a long-term illness where other arrangements could have been made. In this case, independent written verification must be provided;

(b) The violation is the direct result of an error by an elections officer;

(c) The violation is the direct result of fire, flood or other calamitous event, resulting in physical destruction of, or inaccessibility to, any records required to be kept to document compliance with Oregon election law. (“Calamitous event” means a phenomenon of an exceptional character, the effects of which could not have been reasonably prevented or avoided by the exercise of due care or foresight);

(d) The violation of ORS 260.432 occurred after a publication produced and distributed by a governing body relating to a ballot measure was reviewed by the governing body’s legal counsel before its distribution. The legal counsel must have advised the governing body in writing that the publication as distributed was impartial information that the governing body could legally produce and distribute, and was not in violation of election law;

(e) The violation of ORS 260.432 occurred after a publication produced and distributed by a governing body relating to a ballot measure was reviewed by the Secretary of State’s office, Elections Division. The Secretary of State must have advised the governing body in writing that the publication as drafted was impartial information that the governing body could legally produce and distribute or for which suggestions were provided towards the goal of assuring the publication was impartial information regarding the ballot measure. If the Secretary of State issued an advice letter with suggested changes, the governing body must have substantially followed the advice provided. However, this mitigating factor may be disallowed, even if such an advice letter was issued, if a complaint and investigation indicates sufficient evidence that the public body presented inaccurate or unbalanced information, not within the purview of this office to have knowledge of prior to the complaint, which has the effect of promoting or opposing the adoption of the measure;

(f) The violation of ORS 260.432(2) occurred, but the public employee had voiced their objection to the person who coerced, commanded or required the employee to perform the prohibited campaign activity during their work time. Despite the stated objection, the person was still required to perform the activity that violated 260.432(2); or

(g) The violation of ORS 260.432(2) occurred when a supervisor asked the public employee to perform the prohibited campaign activity, consisting of clerical tasks, as a part of the public employee’s job duties during work time. A “request” made by a supervisor is considered a command or requirement within the meaning of 260.432(1). If the violation involves a written document, the public

employee performed clerical tasks only and is not the author of the material.

(3)(a) Penalty Matrix. These mitigating circumstances may be considered in reducing, in whole or in part, the civil penalty. If the violation is a direct result of an error by an elections officer, the violation is waived and no penalty is assessed.

(b) For purposes of determining penalty amounts for violations of non-campaign finance civil penalty election law violations, Appendix B of this rule will apply. [Appendix not included. See ED. NOTE.]

[ED. NOTE: Appendices referenced are available from the agency.]
 Stat. Auth.: ORS 246.150
 Stats. Implemented: ORS 260.995
 Hist.: ELECT 14-2000, f. 7-31-00, cert. ef. 8-4-00; ELECT 22-2003, f. & cert. ef. 12-5-03; ELECT 16-2005, f. & cert. ef. 12-30-05; ELECT 15-2007, f. cert. ef. 12-31-07; ELECT 9-2009, f. & cert. ef. 5-4-09; ELECT 31-2009, f. & cert. ef. 12-31-09

DIVISION 14

INITIATIVE, REFERENDUM AND RECALL

165-014-0005

Designating the Initiative, Referendum and Recall Manuals and Forms

(1) The Secretary of State designates the *2010 State Initiative and Referendum Manual* and associated forms as the procedures and forms to be used for the state initiative and referendum process.

(2) The Secretary of State designates the *2010 Recall Manual* and associated forms as the procedures and forms to be used for the recall process.

(3) The Secretary of State designates the *2010 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.

(4) The Secretary of State designates the *2010 County, City and District Referral 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 local referral process.

[Publications: Publications referenced 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; ELECT 3-1998, f. & cert. ef. 2-11-98; ELECT 10-1999, f. & cert. ef. 10-18-99; ELECT 3-2002, f. & cert. ef. 3-13-02; ELECT 9-2002(Temp), f. & cert. ef. 12-5-02 thru 6-3-03; ELECT 4-2003, f. & cert. ef. 4-25-03; ELECT 20-2003, f. & cert. ef. 12-5-03; ELECT 10-2005, f. & cert. ef. 12-14-05; ELECT 3-2007(Temp), f. & cert. ef. 5-14-07 thru 11-10-07; Administrative correction 11-17-07; ELECT 16-2007, f. & cert. ef. 12-31-07; ELECT 32-2009, f. & cert. ef. 12-31-09

165-014-0028

Review of Proposed Initiative Measures for Procedural Constitutional Compliance

(1) The Secretary of State will review a proposed initiative measure submitted under the authority of Article IV, section 1 of the Oregon Constitution and ORS 250.045 to determine if it complies with the procedural requirements established in the Oregon Constitution for initiative petitions. This review will include, but not necessarily be limited to, whether a proposed initiative measure: “embraces one subject only and matters properly connected therewith;” constitutes an “amendment” to the constitution, or proposes a single amendment to the Constitution or separate amendments that must be submitted separately. The Secretary will not review any prospective petition for substantive constitutional or legal sufficiency.

(2) The Secretary of State will conduct the review of proposed initiative measures for procedural constitutional compliance during the period when the draft ballot title and certified ballot title are prepared.

(3) The Secretary of State will distribute a copy of the text of the proposed initiative measure in the same manner as provided by rule for statewide notice of the opportunity to provide comment on draft ballot titles prepared by the Attorney General. The Secretary will seek comment from interested persons regarding whether the proposed initiative measure complies with procedural constitutional requirements, including those described in section (1) above. Comments must be filed within the same time period as provided for comments on the sufficiency of the draft ballot title.

(4) The Secretary of State will notify in writing the chief petitioners of the results of the Secretary’s review for compliance with the procedural constitutional requirements for proposed initiative measures. The notification will also be sent to any interested persons who submitted timely comments to the Secretary, in the same manner as provided for notification of the certified ballot title provided by the Attorney General.

(5) The Secretary of State will not approve for circulation the form of the cover and signature sheet filed by a chief petitioner(s) if the Secretary determines that the proposed initiative measure fails to comply with the constitutional procedural requirements for a proposed initiative measure.

(6) The Secretary of State’s notice issued pursuant to section (4) is a final order. Review of this order may be sought under ORS 183.484 or 246.910 in the Marion County Circuit Court.

Stat. Auth.: ORS 246.120, 246.150 & OR Const. §1, Art. IV & §1, Art. XVII
 Stats. Implemented: ORS 246.120, 246.150 & OR Const. §1, Art. IV & §1, Art. XVII
 Hist.: SD 26-1986(Temp), f. & ef. 9-15-86; SD 29-1986, f. & ef. 10-10-86; ELECT 11-1998, f. & cert. ef. 11-3-98

165-014-0030

Statistical Sampling Procedures for State Petition

This rule is adopted to implement ORS 250.045(1) and 250.105(5). The sampling formula referred to in this rule is contained in three appendices which are incorporated into this rule by reference. Appendix 1 contains the sample size determination and the description of the margin of errors used in determining if the prospective petition contains the signatures of at least 1,000 electors. Appendix 2 contains the sampling formula for determining whether the prospective initiative petition or the circulated initiative petition contains the required number of signatures. Appendix 3 contains the sampling formula for determining whether a referendum petition contains the required number of signatures.

(1) After receiving the signature sheets from the chief petitioners, the Elections Division utilizes the following process to determine if the prospective initiative petition contains the signatures of at least 1,000 electors. No more than 2,000 signatures will be accepted for verification at any one time.

(2) Two signature samples may be taken in order to determine if the petition contains the required number of signatures. The sampling formula referred to in this rule is contained in Appendix 1, which is incorporated into this rule by reference.

(3) The Secretary of State’s staff will first review, and remove prior to verification, each cover and signature sheet that does not meet the following criteria:

(a) The text of the prospective initiative petition must either be copied onto the back or stapled to the State Prospective Initiative Petition Signature Sheet. If the text is stapled to the State Prospective Initiative Petition Signature Sheet, it must remain stapled at all times.

(b) The circulator certification is sufficient as required by OAR 165-014-0270.

(c) All information included in the optional information fields about the petition signers, such as their printed name, address and date signed, complies with OAR 165-014-0275.

(d) The cover and signature sheet submitted is produced on pastel colored paper stock when the petition is not using paid circulators.

(4) The necessary information from the petition signature sheets will be entered into a computer program for the signature selection process.

(a) Any individual signature line that is not certified by the circulator's certification date will not be included in the sample.

(b) Any individual signature line on which the printed name, residence address or date appears not to comply with OAR 165-014-0275 will not be included in the sample.

(5) The size of the first sample of signatures will be determined by the number of signatures submitted for verification. The sample size is contained in Appendix 1. If upon completion of the first sample, it cannot be determined with confidence that the petition contains signatures of at least 1,000 electors, signature verification will continue on all remaining signatures.

(6) The Oregon Centralized Voter Registration System (OCVR) will be used to conduct signature verification.

(7) Using the "first" random sampling selection lists, the appropriate petition signature lines are verified against the voter's registration record.

(8) The Secretary of State will immediately consolidate and tabulate the verification data, generated from OCVR, for the "first" sample.

(9) The sampling formula to determine acceptance or rejection will be applied to the data from the "first" sample. If the petition is accepted as a result of the "first" sample the Secretary of State will immediately notify the chief petitioners. If the petition is not accepted as a result of the "first" sample, the remaining signatures will be verified.

(10) If the results of the "first" sample do not qualify the petition the remaining signature data will be added to the "first" sample data and the combined results will show that:

(a) The petition has a sufficient number of valid signatures to qualify for submission of the prospective petition; or

(b) The petition does not have a sufficient number of valid signatures to qualify for submission of the prospective petition.

(11) In the event additional signatures are filed no more than 2,000 additional signatures will be accepted for verification. A single sample will be taken. The verification procedures applied to the combined "first" and "second" sample will be applied to the second submission of signatures. If the results of the sample taken from the second submission of signatures do not qualify the prospective petition for submission, the chief petitioners must begin the prospective petition process again.

(12) The Elections Division will notify the chief petitioners of the result of the signature verification:

(a) Not later than 10 business days after receipt of the prospective petition signatures;

(b) Not later than 20 business days after receipt of prospective petition signatures for three or more initiatives received in single day; or

(c) Not later than 20 business days after receipt of prospective petition signatures for which all signatures are required to be verified.

(13) After receiving the signature sheets from the chief petitioners, the Elections Division utilizes the following process to determine if the petition contains enough valid signatures to qualify for the ballot. Additional signatures may be submitted after verification has occurred, as long as the deadline to submit signatures has not passed. The additional sample will be verified pursuant to (29).

(14) Once the chief petitioners have certified that the petition contains enough unverified signatures to meet the statutory or constitutional requirements signature verification may begin.

(15) The chief petitioners must separate all signature sheets by circulator. The chief petitioners must then sequentially number the sheets prior to submission to the Secretary of State. If additional signatures are submitted sequential numbering begins again with page number one.

(16) The Secretary of State's staff will first review, and remove prior to verification, each cover and signature sheet that does not meet the following criteria:

(a) The cover and signature sheet submitted is the same as the version or one of the versions approved for circulation including the "back to back" printing requirement.

(b) The circulator certification is sufficient.

(c) All information included in the optional information fields about the petition signers, such as their printed name, address and date signed, complies with OAR 165-014-0275.

(d) The cover and signature sheet submitted is produced on pastel colored paper stock when the petition is not using paid circulators.

(e) Any electronic template that is produced on pastel colored paper stock.

(17) The necessary information from the petition signature sheets will be entered into a computer program for the signature selection process.

(a) Any individual signature line that is not certified by the circulator's certification date will not be included in the sample.

(b) Any individual signature line on which the printed name, residence address or date appears not to comply with OAR 165-014-0275 will not be included in the sample.

(18) The size of the first sample of signatures will be fixed at 1,000. The size of the second sample of signatures will be specified such that the total number of signatures for the combined first and second sample will be at least five percent of the total number of signatures submitted for verification.

(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 1,000 signatures. A "second" sample list will be produced by using the remainder of the random numbers. The combined number of signatures to be used in the first and second samples will be at least five percent of the total number of signatures submitted for verification.

(b) The "first" and "second" sample list will show the petition identification number, petition signature sheet number and petition sheet line number of each signature selected for verification.

(19) Using the "first" and "second" random sampling selection lists as the control element, the appropriate petition signature sheets are pulled from the stacks.

(20) The random sampling selection list and the selected petition signature sheets are sent to:

(a) County elections officials for verification; or

(b) The Secretary of State may also verify sampled signatures.

(21) The Oregon Centralized Voter Registration System (OCVR) will be used to conduct signature verification.

(22) Upon receipt of the selected petition signature sheet(s) the county elections official will immediately begin verifying the signatures of the "first" sample against the voter's registration record. If the selected signature line is a blank or crossed out line, the next available line below will be verified. If there are no lines below, the line above will be verified. These changes must be noted on the signature sheet. As soon as all the signatures of the "first" sample are verified, the county elections official will immediately notify the Secretary of State.

(23) The Secretary of State will immediately consolidate and tabulate the verification data, generated from the OCVR, for the "first" sample.

(24) The sampling formula to determine acceptance or rejection will be applied to the consolidated data from the "first" sample. 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 verification is required. If the results of the "first" sample do not qualify the petition to the ballot, a "second" larger sample will be verified.

(25) Upon notification by the Secretary of State, the county elections official will immediately begin verifying the signatures of the "second" sample against the voter's registration record, if the petition is not accepted as a result of the "first" sample. If the selected signature line is a blank or crossed out line, the next available line below will be verified. If there are no lines below, the line above will

be verified. These changes must be noted on the signature sheet. As soon as all the signatures of the “second” sample are verified the county elections official will immediately notify the Secretary of State.

(26) The Secretary of State will immediately consolidate and tabulate the verification data, generated from OCVR, for the “second” sample. The statistical formula will be applied to combined data from the “first” and “second” sample to determine its acceptance or rejection.

(27) As soon as notified by the Secretary of State the clerk will return the original sampled petition signature sheets to the Secretary of State within ten business days. If notified by the Secretary of State, the county elections official may terminate signature verification before all signatures included in a sample have been verified.

(28) 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 to qualify for the ballot; or

(b) The petition does not have a sufficient number of valid signatures to qualify for the ballot.

(29) In the event additional signatures are filed pursuant to ORS 250.105(3), an additional sample will be selected solely from the second submittal of signatures.

(a) The sample size of the second submittal will be taken as the larger of 250 and that value which is directly proportional to the size of the combined “first” and “second” samples from the first submittal.

(b) The verification procedures applied to the combined “first” and “second” sample will be applied to the second submission of signatures.

(c) To determine acceptance or rejection of the initiative or referendum petition, the verification results of the second submission will be added to the verification results of the combined “first” and “second” sample of the first submission of signatures.

[ED. NOTE: Appendix referenced are available from the agency.]

Stat. Auth.: ORS 246.150 & 250.105

Stats. Implemented: ORS 250.105

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; ELECT 8-1999, f. & cert. ef. 9-3-99; ELECT 9-2000, f. & cert. ef. 6-6-00; ELECT 3-2004, f. & cert. ef. 4-15-04; ELECT 3-2005, f. & cert. ef. 3-22-05; ELECT 18-2007, f. & cert. ef. 12-31-07; ELECT 19-2011, f. & cert. ef. 9-26-11

165-014-0100

Review of Specified Chief Petitioner Accounts

(1) Each chief petitioner of an initiative, referendum or prospective petition who pays any person money or other valuable consideration to obtain signatures on the petition shall keep detailed accounts in accordance with ORS 260.262. The Elections Division will review these accounts in the manner and in accordance with the schedule set out in paragraphs (2) and (3) of this rule.

(2) Chief petitioners shall submit digital copies of accounts unless they receive prior written approval from the Elections Division to submit paper copies.

(a) Acceptable digital formats include pdf files, Excel files, or Word files submitted on CD-ROM or via electronic mail.

(b) The Elections Division may request original documentation of chief petitioner accounts, in addition to or in lieu of copies.

(c) The Elections Division may choose to conduct on-site reviews of chief petitioner accounts.

(3) Detailed copies of accounts must be submitted on the 10th business day of each month after any month in which circulators were paid to collect signatures. The Elections Division may require accounts to be submitted in shortened time frame depending on the circumstances of each petition.

(4) If original signature sheets are submitted for verification prior to accounts being requested, chief petitioners are required to retain copies of the signature sheets in order to comply with ORS 260.262(1)(e).

(5) Chief petitioners must submit a completed SEL 320, each time accounts are provided, detailing the nature of the accounts provided under ORS 260.262.

(6) The Elections Division shall review accounts to determine whether all of the required information appears to have been provided. If after review it is determined that the accounts submitted are incomplete or the chief petitioners fail to submit the requested accounts, the Elections Division may find that a violation of section 1b, Article IV of the Oregon Constitution, has occurred, suspend the petition from obtaining additional signatures, and issue a civil penalty under OAR 165-013-0020.

(7) If the Elections Division takes action under ORS 260.262(6) the chief petitioners may file notarized written explanation contesting the suspension and providing evidence that the accounts submitted are complete.

(8) If a petition is suspended under ORS 260.262(6) the chief petitioners are prohibited from obtaining any additional signatures on the petition until it has been determined by the Elections Division that the accounts are complete. Any signatures gathered in violation of the suspension will not be accepted for signature verification.

(9) If the petition has multiple chief petitioners, only one set of copies of the detailed accounts for each petition need to be produced by the deadline.

(10) Accounts must be kept current as of not later than the 7th calendar day after the date a payment is made to a person for obtaining signatures on a petition.

(11) The Elections Division reserves the right to conduct a review of chief petitioner accounts in accordance with ORS 260.262(4).

Stat. Auth.: ORS 246.150, 260.262

Stats. Implemented: ORS 260.262

Hist.: ELECT 21-2007, f. & cert. ef. 12-31-07; ELECT 3-2008(Temp), f. & cert. ef. 3-14-08 thru 5-2-08; ELECT 6-2008(Temp), f. & cert. ef. 5-2-08 thru 9-10-08; ELECT 8-2008, f. & cert. ef. 8-12-08; ELECT 33-2009, f. & cert. ef. 12-31-09; ELECT 13-2011, f. & cert. ef. 8-1-11

Statistical Sampling for Local Petitions

165-014-0110

Statistical Sampling Procedures for Other than State Initiative or Referendum Petitions

This rule is adopted to implement ORS 248.008, 249.008, 249.875, 250.215, 250.315, and 255.175. For a recall petition filed against a State Public Officer and any minor political party formation petitions the Secretary of State may choose to verify sampled signatures.

(1) After receiving the signature sheets from the chief petitioners, the following process must be used to determine if a petition subject to statistical sampling contains enough valid signatures to qualify for the ballot.

(2) 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 to the ballot. The sampling formula referred to in this rule is contained in Appendix 4, which is incorporated into this rule by reference.

(3) If the petition fails to qualify for the ballot additional signatures may be submitted after verification has occurred, as long as the deadline to submit signatures has not passed. The additional sample will be verified pursuant to (17).

(4) The chief petitioners must certify upon submission of signatures that the petition contains enough unverified signatures to meet the statutory requirements. The petition is then accepted for signature verification. If the chief petitioners cannot certify that the petition contains enough unverified signatures to meet the statutory requirements, the petition is not accepted.

(5) The chief petitioners must sequentially number the sheets prior to submission.

(6) Prior to verification, each petition cover and signature sheet is first reviewed, and subsequently removed, if it does not meet the following criteria:

(a) The cover and signature sheet submitted is the same as the version or one of the versions approved for circulation including the “back to back” printing requirement.

(b) The circulator certification is sufficient as required by OAR 165-014-0270.

(c) All information included in the optional information fields about the petition signers, such as their printed name, address and date signed, complies with OAR 165-014-0275.

(7) The necessary information from the petition signature sheets will be entered into a computer program for the signature selection process.

(a) Any individual signature line that is not certified by the circulator's certification date will not be included in the sample.

(b) Any individual signature line on which the printed name, residence address or date appears not to comply with OAR 165-014-0275 will not be included in the sample.

(8) The sample size of the first sample of signatures will be 10% of the total signatures accepted for verification. The size of the second sample of signatures will be the same number used in the first sample, plus at least one additional signature.

(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. A "second" sample list will be produced by using the remainder of the random numbers.

(b) The "first" and "second" sample list will show the petition identification number, petition signature sheet number and petition sheet line number of each signature selected for verification.

(9) Using the "first" and "second" random sampling selection lists as the control element, the appropriate petition signature sheets are pulled from the stacks.

(10) The Oregon Centralized Voter Registration System (OCVR) will be used to conduct signature verification.

(11) Upon completion of the procedures required in sections (1) through (8) of this rule, the county elections official will immediately begin verifying the signatures of the "first" sample against the voter's current registration card. If the selected signature line is a blank or crossed out line, the next available line below will be verified. If there are no lines below, the line above will be verified. These changes must be noted on the signature sheet.

(12) The county elections official will immediately consolidate and tabulate all "first" sample data generated from OCVR.

(13) The sampling formula to determine acceptance or rejection will be applied to the consolidated data from the "first" sample. If the petition is accepted as a result of the "first" sample, no further verification is required. If the results of the "first" sample do not qualify the petition to the ballot, the "second" larger sample will be verified.

(14) The county elections official will immediately begin verifying the signatures of the "second" sample against the voter's current registration card, if the petition is not accepted as a result of the "first" sample. If the selected signature line is a blank or crossed out line, the next available line below will be verified. If there are no lines below, the line above will be verified. These changes must be noted on the signature sheet.

(15) The county elections official will immediately consolidate and tabulate all "second" sample data generated from OCVR.

(16) 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 to qualify for the ballot; or

(b) The petition does not have a sufficient number of valid signatures to qualify for the ballot.

(17) In the event additional signatures are filed the county elections official has the option to either verify all additional signatures or to continue to use the sampling process described in this rule. If the county elections official chooses to verify additional signatures using the sampling process, samples will be selected solely from each additional submittal(s) of signatures.

(a) The sample size of any additional submittal(s) will be directly proportional to the combined "first" and "second" samples from the first submittal or 100 whichever is greater.

(b) The verification procedures applied to the combined "first" and "second" sample will be applied to any additional submittal of signatures.

(c) To determine acceptance or rejection of the initiative or referendum petition, the verification results of any additional submittal will be added to the verification results of the combined "first" and "second" sample of the first submission of signatures.

[ED. NOTE: Appendix referenced is available from the agency.]
Stat. Auth.: ORS 246.150, 250.105, 250.215, 250.315 & 255.175
Stats. Implemented: ORS 249.875, 250.105, 250.215, 250.315 & 255.175
Hist.: ELECT 19-1991(Temp), f. & cert. ef. 12-20-91; ELECT 13-1993, f. & cert. ef. 4-16-93; ELECT 7-2000, f. & cert. ef. 4-5-00; ELECT 3-2004, f. & cert. ef. 4-15-04; ELECT 3-2005, f. & cert. ef. 3-22-05; ELECT 10-2005, f. & cert. ef. 12-14-05; ELECT 18-2007, f. & cert. ef. 12-31-07; ELECT 19-2011, f. & cert. ef. 9-26-11

**165-014-0260
Prohibition on Paying or Receipt of Payment based on the Number of Signatures Obtained on an Initiative, Referendum, Candidate Nominating Petition or Voter Registration Cards**

(1) The purpose of this rule is to interpret Article IV, section 1b of the Oregon Constitution and ORS 260.569. Article IV, section 1b of the Oregon Constitution provides: "It shall be unlawful to pay or receive money or other thing of value based on the number of signatures obtained on an initiative or referendum petition. Nothing herein prohibits payment for signature gathering which is not based, directly or indirectly, on the number of signatures obtained." ORS 260.569 provides: "A person may not pay or receive money or another thing of value based on the number of: signatures a person obtains for purposes of nominating a candidate for elective public office or signed voter registration cards a person collects.

(2) Section 1b and ORS 260.569 bans the practice of paying circulators or others involved in an initiative, referendum, candidate nominating petition or voter registration card collection effort if the basis for payment is the number of signatures obtained. This means that payment cannot be made on a per signature basis. Employment relationships that do not base payment on the number of signatures collected are allowed. Allowable practices include: paying an hourly wage or salary, using express minimum signature requirements (quota), terminating those who do not meet the productivity requirements, adjusting salaries prospectively relative to productivity, and paying discretionary bonuses based on reliability, longevity and productivity, provided no payments are made on a per signature basis. The use of express minimum signature requirements (quota) for an initiative or referendum petition is allowable so long as that requirement is disclosed to the Elections Division on the SEL 320 as part of accounts.

(3) If a circulator is carrying a petition subject to Section 1b or ORS 260.569 and another petition not subject to Section 1b or ORS 260.569 (for example, a state initiative petition and a local recall petition), the circulator may be paid by the signature only for signatures collected on the petition not subject to Section 1b or ORS 260.569. Any payment for collecting signatures on the petition subject to Section 1b or ORS 260.569 must comply with Section 1b or ORS 260.569.

(4) The phrase "directly or indirectly" in Section 1b means that the chief petitioners who are responsible for the circulation and submission of the initiative or referendum petition cannot directly pay for signature gathering based on the number of signatures obtained, and cannot contract or delegate to another person or entity to obtain signatures and allow the third party to pay circulators on the basis of the number of signatures obtained. However, chief petitioners may contract with a person or entity to manage the signature gathering, and pay the person or entity for services, including the service of qualifying the petition for the ballot, so long as the individuals who actually circulate the petition are not paid based on the number of signatures obtained. The chief petitioners are responsible for insuring that agents of the chief petitioner (anyone who is delegated the task of obtaining signatures on the initiative or referendum petition) do not violate Section 1b.

(5) Violations of Section 1b or ORS 260.569 will be processed under 260.995 as civil penalties. Penalties may be assessed against chief petitioners or any other persons who either directly or indirectly pay based on the number of signatures or voter registration cards obtained. Liability may be imposed on chief petitioners as provided in 260.561. Violations of Section 1b or 260.569 will be calculated by deeming each individual signature sheet or voter registration card that contains signatures that were collected in violation of Section 1b or 260.569 as a single occurrence with a minimum civil penalty of \$100. Violations of Section 1b or 260.569 shall not be combined under OAR 165-013-0020(1)(b)(E).

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 250.045 & 260.995

Hist.: ELECT 15-2003, f. & cert. ef. 10-15-03; ELECT 22-2007, f. & cert. ef. 12-31-07; ELECT 15-2011, f. & cert. ef. 8-11-11

165-014-0270

Circulator Certification

(1) The purpose of this rule is to incorporate into administrative law previously enforced standards on what constitutes a sufficient circulator certification on Initiative, Referendum, Recall, and Candidate Nominating petitions.

(2) A petition signature sheet will be rejected for insufficient circulator certification if:

(a) No signature whatsoever appears below the certification;

(b) No date appears next to circulator's signature or the date is crossed out;

(c) The date of the circulator certification is earlier than the date of the electors' signatures, unless the circulator and the only signer are the same person;

(d) Original date is crossed out, and a new date is provided, but the circulator failed to re-sign;

(e) Any part of the original date is overwritten with a different date;

(f) Date information is insufficient or ambiguous. Date must be provided in month, day, year order if written in all numeric characters;

(g) The original signature of a circulator has been crossed out, and a different circulator's signature is inserted;

(h) Two individuals sign and date as circulator, unless the only signers and the circulators are the same people;

(i) White out appears on the signature or date line;

(j) The circulator has signed using only initials, unless the circulator's use of initials as a signature is verified by exemplar under paragraph (5) of this rule;

(k) The circulator has signed using a signature stamp, unless use of a signature stamp has been approved under ORS 246.025;

(l) Circulator's signature is photocopied, carbon-copied, or otherwise appears on the face of the document to be a replicated and not original signature except as provided for in ORS 250.043;

(m) Signature, printed name, and address are all illegible;

(n) Signature alone is illegible, unless the circulator's use of the apparently illegible signature is verified by exemplar under paragraph (5) of this rule;

(o) Circulator's signature is in printed script rather than cursive script, unless the circulator's use of a printed signature is verified by exemplar under paragraph (5) of this rule;

(p) If for any other reason, from the face of the signature sheet, the circulator's identity cannot be determined or it otherwise cannot be determined that the circulator executed the certification after witnessing the electors' signatures.

(3) If a petition signature sheet contains elector signatures dated both on or before the date of the circulator's effective certification and after the date of the circulator's effective certification, the signature sheet will be accepted with regard to the elector signatures dated on or before the date of the certification, but elector signatures dated after the date of the certification will not be accepted.

(4) The following defects in the circulator certification will not result in rejection of the signature sheet:

(a) The circulator's signature appears on the printed name line instead of on the signature line;

(b) Signature consists of full last name and at least the first name initial;

(c) The circulator has signed and dated the certification, but has not provided an address or printed name; or

(d) The circulator has re-signed and re-dated the certification and the circulator's original signature has not been crossed out.

(5) If a preliminary determination is made under paragraph (2)(j), (n) or (o) of this rule that a certification is insufficient, the certification signature may be verified by exemplar in the following manner:

(a) If the circulator is required to be registered under ORS 250.048 Section 2 the Elections Division will compare the certification signature only to the circulator's signature supplied by the circulator on the circulator's SEL 308, Circulator Registration. If the certification signature matches the signature on the SEL 308 that was in effect at the time that the signature sheet was certified, the petition signature sheet will be accepted. If the certification signature does not match the signature on the SEL 308 that was in effect at the time that the signature sheet was certified, the petition signature sheet will be rejected for insufficient certification. A certification signature may consist at a minimum of a first name initial and full last name and still be accepted even if the signature on the circulator's most recent SEL 308 contains a full first name and full last name.

(b) For circulators not required to be registered under ORS 250.048, the Elections Division will compare the certification signature to the circulator's current Oregon voter registration card signature, if available. If the certification signature matches the voter registration signature, the petition signature sheet will be accepted. If the certification signature does not match the voter registration signature, the petition signature sheet will be rejected for insufficient certification.

(c) If the circulator is not required to be registered under ORS 250.048 and an Oregon voter registration card bearing the circulator's signature is not available as an exemplar, the Elections Division will compare the certification signature to an alternative exemplar filed with the Elections Division or retained on file by the Elections Division under section (6) of this rule. If the certification signature does not match the alternative exemplar provided or retained under section (6) and (7) of this rule, the petition signature sheet will be rejected for insufficient certification.

(d) If the circulator is not required to be registered under ORS 250.048 and an Oregon voter registration card bearing the circulator's signature is not available as an exemplar, and an alternative exemplar has not been filed with or retained on file by the Elections Division under section (6) and (7) of this rule, the Elections Division will notify the chief petitioner or the chief petitioner's designee by telephone and electronic mail, if available, and provide the chief petitioner or designee an opportunity to submit an alternative exemplar of the circulator's signature.

(A) If an alternative exemplar is requested by the Elections Division not later than the 20th day after signatures are submitted for verification, the chief petitioners or the chief petitioner's designee must provide the alternative exemplar within 2 days of notification for the alternative exemplar to be considered.

(B) If an alternative exemplar is requested by the Elections Division after the 20th day after signatures are submitted for verification, the chief petitioners or the chief petitioner's designee must provide the alternative exemplar within 1 day of notification for the alternative exemplar to be considered.

(C) The alternative exemplar must be a signature on an official government-issued document such as a driver's license or passport, and must have been executed before the date of the attempted certification of the petition signature sheet. If the certification signature matches the alternative exemplar, the petition signature sheet will be accepted. If the certification signature does not match the alternative exemplar, the petition signature sheet will be rejected for insufficient certification.

(D) The alternative exemplar may be physically delivered to the Elections Division or may be delivered by facsimile transmission or electronic mail. If delivered by electronic mail, the document must be reproduced in .gif or .pdf format. The alternative exemplar must

be received at the office of the Secretary of State not later than 5 p.m. of the day it is due.

(6) Chief petitioners may submit alternative exemplars of petition circulators' signatures at the same time they submit petition signature sheets for signature verification. The alternative exemplar must comply with the requirements of paragraph (5)(c)(C) of this rule. When submitting alternative exemplars, chief petitioners must provide a list of circulators for whom they are submitting alternative exemplars. If no list accompanies the alternative exemplars submitted under this section, those alternative exemplars will not be accepted or used to compare the circulator's signature to the certification. If an alternative exemplar is omitted from the list, that alternative exemplar will not be accepted or used to compare the circulator's signature to the certification. Chief petitioners may still be offered the opportunity to submit alternative exemplars under paragraph (5)(c).

(7) Alternative exemplars received and accepted by the Elections Division under paragraphs (5) and (6) of this rule, will be retained on file for two years from the date of receipt.

Stat. Auth.: ORS 246.150, 249.008, 250.105, 250.215, 250.315 & 255.175
Stats. Implemented: ORS 249.008, 249.061, 249.740, 249.865, 249.875, 250.045, 250.105, 250.215, 250.315 & 255.175
Hist.: ELECT 4-2005, f. & cert. ef. 4-8-05; ELECT 23-2007, f. & cert. ef. 12-31-07

165-014-0275

Completion of Optional Information on Petition Sheets

(1) The purpose of this rule is to establish standards governing what an Elections Official will review for in determining if there has been a violation of ORS 260.567. This rule applies to all state and local initiative, referendum, recall and candidate nominating petitions.

(2) A petition signature sheet will be rejected for noncompliance with ORS 260.567 and not included in the sample if:

(a) The same handwriting appears to have completed the optional information on all lines of the petition sheet;

(b) Optional information on all lines has been entered, altered, corrected, clarified or obscured by typewriting or other mechanical means;

(c) For any other reason the Elections Official determines from the face of the signature sheet that a person or persons other than the petition signers entered, altered, corrected, clarified or obscured any information about the person who signed the signature sheet, including the optional fields of printed name, residence address and date signed.

(3) If the same handwriting appears to have completed the optional information on multiple lines only the first signature line will be included in the sample. All other lines will be rejected for noncompliance with ORS 260.567 and will not be included in the sample.

(4) Notwithstanding paragraphs (2) and (3) of this rule, a signature sheet or an individual signature line will not be rejected for noncompliance with ORS 260.567 if:

(a) Each entry or change of information made by a person other than the signer, was subsequently initialed by the person who signed the signature sheet; or

(b) Each entry or change of information occurred with regard to a signer who is a person with a disability who requested assistance in writing, altering, correcting, clarifying or obscuring on the petition sheet any information about the person.

(5) For purposes of this rule, "optional information" means information in the optional fields of printed name, residence address and date signed.

Stat. Auth.: ORS 246.150
Stats. Implemented: ORS 260.567
Hist.: ELECT 24-2007, f. & cert. ef. 12-31-07; ELECT 14-2011, f. & cert. ef. 8-4-11

165-014-0280

Circulator Training and Registration

(1) Any person who will be paid to gather signatures on a state initiative, referendum recall or prospective petition must register with the Secretary of State after completing a training program prescribed by rule of the Secretary. Any person who, in the five-year period prior

to the date of application, has been convicted in any state for a criminal offense involving fraud, forgery or identification theft, has had a civil penalty imposed under ORS 260.995 for a violation of 260.048 or 260.262, or has had a civil or criminal penalty imposed for violation of a statute subject to a criminal penalty under 260.993, may not apply for registration.

(2) The Secretary of State designates the web based 2010 Circulator Training and associated forms as the curriculum and forms to be used by any person who will be paid to gather signatures on a state initiative, referendum or recall petition to satisfy the training component of the Secretary of State's circulator registration process.

(3) To register, a person must complete and file the SEL 308 Circulator Registration, the SEL 306 Circulator Training Certificate, the SEL 309 Chief Petitioner Acknowledgement and must provide or have taken by the Elections Division staff a digital photograph.

(4) A circulator's photograph must be:

(a) Less than four years old when it is filed; and

(b) Portrait style, front-facing, showing the face, neck and shoulders only.

(5) The photograph will be used for production of a circulator badge. This badge will include the words "Paid Circulator," the registration number assigned to the circulator by the Elections Division, and the circulator's photograph.

(a) A circulator must carry this badge while circulating as evidence of registration.

(b) A circulator is required to produce the badge for inspection as evidence of registration upon a request from a representative of the Secretary of State, Attorney General or Commissioner of the Bureau of Labor and Industries.

(c) If a paid circulator can not produce the badge issued by the Elections Division upon a request from a representative of the Secretary of State, Attorney General or Commissioner of the Bureau of Labor and Industries the petition sheets signed by that circulator will not be accepted for verification unless the circulator can prove registration at the time of circulation. Only those signature sheets gathered by paid circulators who are registered in accordance with ORS 250.048 may be accepted for verification.

(6) Whenever any of the information disclosed on the Circulator Registration (SEL 308) changes, the circulator must report the change within 10 calendar days by filing an amended SEL 308 with the Elections Division. If the change being disclosed is additional or different initiatives, referendums or recalls for which the person will be circulating, the circulator may not begin gathering signatures for the additional or different petitions until an updated SEL 309 signed by the chief petitioners is submitted.

(7) Any signatures obtained by a person who the Secretary of State determines, during the five year period prior to the date the signatures were obtained has been convicted for a criminal offense involving fraud, forgery or identification theft, has had a civil penalty imposed under ORS 260.995 for a violation of 260.048 or 260.262, or has had a civil or criminal penalty imposed for violation of a statute subject to a criminal penalty under 260.993, will not be included in a count under 250.045(3) or 250.105 or ORS Chapter 249 for purposes of determining whether an initiative, referendum or recall petition or prospective petition for a state measure to be initiated contains the required number of signatures of electors.

Stat. Auth.: ORS 246.150, Sec. 2, Ch. 848 OL 2007
Stats. Implemented: Sec. 2, Ch. 848 OL 2007
Hist.: ELECT 7-2007, f. & cert. ef. 12-3-07; ELECT 34-2009, f. & cert. ef. 12-31-09

165-014-0285

Circulating Unpaid Petitions by Paid Petition Circulators

Under ORS 250.048(9), a person may not obtain signatures on a petition or prospective petition for which the person is being paid and, at the same time, obtain signatures on a petition or prospective petition for which the person is not being paid. For purposes of ORS 250.048(9), "at the same time" means during any time period for which the person is being paid to circulate any petition or prospective petition. "At the same time" does not include any lunch or other break period for which a person is not paid to circulate any such

petition, as reflected in the person's payroll records required to be submitted under OAR 165-014-0100.

Stat. Auth.: ORS 246.150
 Stats. Implemented: ORS 250.048
 Hist.: ELECT-8-2010, f. & cert. ef. 11-5-10

DIVISION 16

VOTERS' PAMPHLET

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

165-016-0040

Candidate Filing Statement

(1) The candidate's statement of required and optional information must be filed on form SEL 430 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 of training or teaching; and

(d) Prior governmental experience, meaning any previous appointed or elected position with a governmental organization, whether paid or unpaid.

(3) Text changes may be made by the Elections Division either to correct depth problems or to reduce the word count during the publishing process for the state voters' pamphlet.

(4) A copy of the candidate's original statement or an amended statement transmitted by facsimile machine may be accepted.

(5) Statements shall not be returned to the candidate or the candidate's campaign for proofreading before or after the printing of the voters' pamphlet. The Elections Division shall make every effort to follow any formatting instructions provided by the candidate, but shall not guarantee accuracy.

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

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 246.150
 Stats. Implemented: ORS 251.046, 251.065, 251.075, 251.085, 251.087 & 251.095.
 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; ELECT 7-1998, f. & cert. ef. 5-8-98; ELECT 3-2000, f. & cert. ef. 1-14-00; ELECT 7-2006, f. & cert. ef. 4-18-06

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) Photographs may be filed separately from the candidate's statement and fee, but must be received in the Elections Division not later than 5 p.m. on the filing deadline day;

(d) Replacement or substitute photographs may be submitted, but 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 four years old when it is filed; and

(b) Front-facing, showing the face, neck and shoulders only. Hands shall not be shown.

(3) It is preferred that a candidate's photograph be:

(a) Portrait-style 5" x 7";

(b) Black and white; and

(c) Matte finish.

(4) 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).

(5) Photographs which do not meet the above criteria shall be cropped and airbrushed.

(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: ORS 251.087

Hist.: ELECT 28-1990(Temp), f. & cert. ef. 7-13-90; ELECT 33-1990, f. & cert. ef. 8-16-90; ELECT 7-2006, f. & cert. ef. 4-18-06

165-016-0050

Arguments Filed in Support or Opposition to Ballot Measures

(1) Any individual or organization may file an argument in support of or opposition to a ballot measure. The Secretary of State hereby designates the following forms as the forms necessary for filing a measure argument in the state voters' pamphlet.

(a) Form SEL 405, which prescribes the requirements and instructions necessary for filing a measure argument in the state voters' pamphlet; and

(b) Form SEL 406, the petition sheet for filing a petition for an argument for or against a ballot measure to be published in the state voters' pamphlet.

(2) Text changes may be made by the Elections Division either to correct depth problems or to reduce the word count during the publishing process for the state voters' pamphlet.

(3) A copy of the original argument or an amended argument transmitted by facsimile machine may be accepted.

(4) Measure arguments shall not be returned to the individual or organization that filed for proofreading before or after the printing of the state voters' pamphlet. The Elections Division will attempt to follow any formatting instructions provided by the individual or organization that filed the argument, but shall not guarantee compliance.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 251.046 & 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; ELECT 7-1998, f. & cert. ef. 5-8-98; ELECT 3-2000, f. & cert. ef. 1-14-00; ELECT 7-2006, f. & cert. ef. 4-18-06

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 state voters' pamphlet, a statement of arguments for the success of its principles and election of its candidates on a statewide or county basis or opposing the principles and candidates of other statewide or county political parties or organizations. A statement of arguments must be filed on form SEL 420 which prescribes the requirements and instructions necessary for filing a statement in the state voters' pamphlet.

(2) Text changes may be made by the Elections Division either to correct depth problems or to reduce the word count during the publishing process for the state voters' pamphlet.

(3) A copy of the original or an amended statement of arguments transmitted by facsimile machine may be accepted.

(4) 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. The Elections Division will attempt to follow any formatting instructions provided by the statewide or county political party or assembly of electors who filed the statement, but shall not guarantee compliance.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 246.150
Stats. Implemented: ORS 251.046 & 251.115
Hist.: ELECT 15-1996, f. & cert. ef. 12-19-96; ELECT 7-1998, f. & cert. ef. 5-8-98; ELECT 3-2000, f. & cert. ef. 1-14-00; ELECT 7-2006, f. & cert. ef. 4-18-06

**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 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.

(1) The SEL 400 governs representation and spelling of name, title and organization identifying endorsers in the statement or argument.

(2) Variations in punctuation, abbreviations and capitalizations between the statement or argument and the SEL 400 are allowed. The statement or argument governs these style issues.

(3) The statement or argument may include geographic identifiers and other descriptors such as occupation not listed on the SEL 400. If the SEL 400 contains such descriptors, they must be included in the statement or argument if they add specific information to identify the endorser.

(4) The organizations submitting a measure argument may be listed as submitters based on the SEL 405, the SEL 400 is not necessary.

(5) A spokesperson for an organization may not list individual names of members of the organization without an accompanying SEL 400 for each of those individuals.

[ED. NOTE: Forms referenced are available from the agency.]
Stat. Auth.: ORS 246.150
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; ELECT 7-1998, f. & cert. ef. 5-8-98; ELECT 3-2000, f. & cert. ef. 1-14-00; ELECT 5-2002(Temp), f. & cert. ef. 7-1-02 thru 12-28-02; ELECT 7-2006, f. & cert. ef. 4-18-06

**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 portions 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 does not violate the provisions of ORS 251.055; and

(b) The revised statement is 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 to inform the person 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 & 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; ELECT 7-2006, f. & cert. ef. 4-18-06

**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 or leaving a message on an answering device 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 later than the fifth business day after the deadline for filing candidates' statements:

(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 later than the fifth business day after the deadline for filing statements.

(7) Notification of a need for revision shall identify the reasons why the statement or portrait fails to comply with applicable statutes.

(8) A revised statement may be submitted by electronic mail, 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, 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; ELECT 7-2006, f. & cert. ef. 4-18-06

165-016-0095

Inclusion Fees for County and Metropolitan Service District Measures

(1) The purpose of this rule is to establish a schedule of fees for counties or metropolitan service districts filing measures to be included in the State Voters' Pamphlet.

(2) Each argument for a county or metropolitan service district measure filed with the county must be accompanied by a filing fee not to exceed \$300 or a verified petition containing not more than a number of signatures equal to 1,000 electors eligible to vote on the measure or 10 percent of the total of such electors, whichever is less.

(3) The county or metropolitan service district shall pay the Secretary of State a fee for each argument based on the population of the county or metropolitan service district. The fee schedule is as follows:

(a) For a county or district with a population of less than 10,000 within a county — \$100.00;

(b) For a county or district with a population between 10,000 and 50,000 within a county — \$200.00;

(c) For a county or district with a population over 50,000 within a county or service district — \$300.

(4) Each page consumed by the ballot title and explanatory statement will be billed to the county or district at the same rate described in section (3) of this rule.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 251.285

Hist.: ELECT 4-1998(Temp), f. & cert. ef. 2-23-98 thru 4-21-98; ELECT 8-1998, f. & cert. ef. 6-2-98; ELECT 3-2000, f. & cert. ef. 1-14-00; ELECT 15-2000, f. & cert. ef. 8-7-00; ELECT 7-2006, f. & cert. ef. 4-18-06; ELECT 6-2010, f. & cert. ef. 11-1-10

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 1998 Election Board Manual, pages 1 through 12, as the procedures and guidelines for conducting elections at the polling place.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 246.120, 246.150, 246.335, 246.420, 253.030, 254.056 & 254.435

Stats. Implemented: ORS 246.120, 246.150, 246.335, 246.420, 253.030, 254.056 & 254.435

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; ELECT 2-1998, f. & cert. ef. 2-5-98

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 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 ANSI 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

Chapter 165 Secretary of State, Elections Division

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-electoral may be appointed to an election board.

(5) A non-electoral appointed to an election board may serve in any capacity except as chairperson.

(6) A non-electoral 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

DIVISION 20

SPECIAL DISTRICT ELECTIONS

165-020-0005

Designating the City and District Elections Manuals and Forms

(1) The Secretary of State designates the *2010 City Elections Manual* and associated forms as the procedures and forms to be used for city elections processes.

(2) The Secretary of State designates the *2010 District Elections Manual* and associated forms as the procedures and forms to be used for district elections processes.

(3) In accordance with ORS 260.043 the Secretary of State amends the *2010 City Elections Manual and the 2010 District Elections Manual* and all associated forms to reference that when a candidate serves as the candidate's own treasurer, the candidate does not have an existing candidate committee and the candidate does not expect to receive or spend more than \$750 during a calendar year, the candidate is not required to establish a campaign account, file a State of Organization or file contribution and expenditure transactions.

[Publications: Publications referenced 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; ELECT 1-1996, f. & cert. ef. 1-3-96; ELECT 8-1997, f. & cert. ef. 10-3-97; ELECT 3-1998, f. & cert. ef. 2-11-98; ELECT 10-1998, f. & cert. ef. 11-3-98; ELECT 4-1999, f. & cert. ef. 3-1-99; ELECT 10-1999, f. & cert. ef. 10-18-99; ELECT 3-2002, f. & cert. ef. 3-13-02; ELECT 9-2002(Temp), f. & cert. ef. 12-5-02 thru 6-3-03; ELECT 4-2003, f. & cert. ef. 4-25-03; ELECT 16-2003, f. & cert. ef. 12-5-03; ELECT 11-2005, f. & cert. ef. 12-14-05; ELECT 25-2007, f. & cert. ef. 12-31-07; ELECT 35-2009, f. & cert. ef. 12-31-09; ELECT 2-2011, f. & cert. ef. 2-4-11

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: Forms referenced are available from the agency.]
 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

Forms

165-020-0020

Notice of Election of Board Members for Special Districts

(1) The Secretary of State hereby adopts by reference and designates SEL 815, Notice of Election of Board Members for Special Districts to comply with ORS 255.069.

(2) The elections officer shall deliver the SEL 815, or similar form that contains at a minimum the information set forth in subsection (3) of this rule, to each district elections authority, no later than the dates prescribed in ORS 255.069(1). The elections officer shall instruct the district elections authority to review the information on the form and make additions and corrections as necessary. If the information supplied by the elections officer to the district elections authority is correct, the district elections authority shall so indicate.

- (3) The SEL 815 shall contain:
- (a) Name of district;
 - (b) Date of election;
 - (c) Open board positions;
 - (d) Title of office;
 - (e) Term of each office;
 - (f) Name of county in which declaration of candidacy or petition of nomination is to be filed;
 - (g) Deadline for candidate filings;
 - (h) Designation of newspaper in which legal notice is to be published; and
 - (i) Signature of authorized district election authority, title and date signed.

(4) The elections officer shall prepare the notice required by ORS 255.075 using the updated information submitted by the district elections authority under subsection (2) of this rule.

(5) In making the designation of a newspaper of general circulation in the district for publication of the district's notices the elections officer shall consider the criteria set forth in ORS 193.020.

(6) In addition to the information required in a publication made pursuant to ORS 255.075, the elections officer shall also include a statement as to where declarations of candidacy and petitions for nomination may be filed.

[ED. NOTE: Forms referenced are available from the agency.]
 Stat. Auth.: ORS 246.120 & 246.150
 Stats. Implemented: ORS 255.075
 Hist.: SD 13-1980, f. & ef. 2-1-80; ELECT 29-1993, f. & cert. ef. 7-23-93; ELECT 10-2003, f. & cert. ef. 9-3-03; ELECT 26-2007, f. & cert. ef. 12-31-07; ELECT 36-2009, f. & cert. ef. 12-31-09

165-020-0021

Record Retention for Preparation of Notice of Election of Board Members for Special Districts

(1) In accordance with ORS 255.069(4) the election officer shall retain completed SEL 815, Notice of Election of Board Members for Special Districts, filed by the district elections authority in a file maintained for that purpose. All forms shall be kept for a period of at least 4 years after the district election for which the form was completed.

(2) To maintain adequate records for preparation of the SEL 815 by the elections officer, the district elections authority must notify the elections officer of any vacancy as soon as practicable. If the vacancy occurs after the 101st day before the regular district election and on or before the 62nd day before the regular district election, the district elections authority must immediately notify the elections officer, but not later than the next business day.

(3) When a person is appointed to fill a vacancy in a district office, the district elections authority must give written notice to the elections officer within two business days after such appointment is made.

[ED. NOTE: Forms referenced are available from the agency.]
 Stat. Auth.: ORS 246.150
 Stats. Implemented: ORS 255.069
 Hist.: ELECT 26-2007, f. & cert. ef. 12-31-07

165-020-0025

Notice of County, City and District Measure Election

The Secretary of State hereby designates forms SEL 801, 802, and 803 to comply with ORS 254.095(2), 254.103 and 255.085 to file 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. These forms shall contain the following information:

- (1) Name of county, city, district, or unit of local government.
- (2) Date of election and name of county, city or district in which election will be held.
- (3) Ballot title consisting of:
 - (a) 10-word Caption;
 - (b) 20-word Question;
 - (c) A concise and impartial statement of not more than 175 words, summarizing the measure and its major effect. Ballot titles shall meet the requirements of ORS 250.035, 250.036, 250.037, and 250.038, as applicable.
- (4) Signature of county, city or district official, authorized to file the notice of measure election, title and date signed.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS 246.110, 254.095, 254.103 & 254.465

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; ELECT 16-2000, f. & cert. ef. 8-7-00; ELECT 10-2003, f. & cert. ef. 9-3-03

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 254.108 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 246.150

Stats. Implemented: ORS 254.108 & 255.005

Hist.: SD 38-1980(Temp), f. & ef. 3-17-80; SD 1-1981, f. & ef. 7-21-81; ELECT 10-2003, f. & cert. ef. 9-3-03

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

Nominating Schedule for Filling Vacancy in Office of Board Member of District

(1) The purpose of this rule is 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 101st day before the regular district election and on or before the 62nd day before the regular district election.

(3) As soon as practicable after a vacancy in the office of district board member occurs the district elections authority shall deliver written confirmation of the vacancy to the elections officer. The written confirmation shall include the office information, position or zone number and the expiration date of the term.

(4) Upon receipt of the written confirmation of the vacancy the elections officer shall publish in the next available edition of a newspaper of general circulation or mail to each elector of the district an amended notice of district board election. The amended notice shall contain:

(a) All the information contained in the original published notice, including the same filing 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 elections officer, for the office in which the vacancy exists.

(5) Candidates shall file for election in accordance with ORS 255.235(1)(a) and (b).

(6) The elections officer shall accept candidate filings for not fewer than seven calendar days after receipt of written confirmation of vacancy.

(7) 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 246.150 & ORS 255.245

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; ELECT 26-2007, f. & cert. ef. 12-31-07

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. Chargeable costs do not include expenses incurred by the county election officer for the election of directors of a soil and water conservation district organized under ORS 568.210 to 568.808 and 568.900 to 568.933.

(2) An "Election Equipment Amortization Worksheet" (SEL 950, SEL 950A, or SEL 950B), "Average Ballots Cast/Average Aggregate Registration Worksheet" (SEL 951), "Allocated Cost Worksheet for Vote By Mail Elections" (SEL 952), "Local Elections Billing Worksheet" (SEL 953), and "Voters' Pamphlet Cost Worksheet" (SEL 955) are adopted by reference and designated for use 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: Forms referenced are available from the agency.]
 Stat. Auth.: ORS 246.150, 246.179 & 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 11-2000, f. & cert. ef. 6-7-00; ELECT 10-2003, f. & cert. ef. 9-3-03; ELECT 4-2004, f. & cert. ef. 4-15-04; ELECT 26-2007, f. & cert. ef. 12-31-07; ELECT 14-2009, f. & cert. ef. 6-30-09; ELECT 37-2009, f. & cert. ef. 12-31-09; ELECT 7-2010, f. & cert. ef. 11-1-10

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 district offices plus the total number of district measures multiplied by the number of active electors in the district.

(5) "Allocated Cost." The total of all costs on the "Allocated Cost Worksheet for Vote By Mail Elections (SEL 952 VBM) 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) "Software or Program." The detailed 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) "Software License or Royalty." 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 each district office and district measure's apportioned costs and dedicated expenditures. Chargeable costs apply only to those district offices and district measures qualified to appear on the ballot. Costs associated with a county's voters' pamphlet shall be considered chargeable costs for local elections.

(9) "Apportioned Cost." A value which occurs when the aggregate registration for each district office and district measure 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) "Election Cost." 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" (SEL 953).

(12) "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.

(15) "Office." Any elected office qualified for the ballot.

(16) "Measure." A proposed law, an Act or part of an Act of the Legislative Assembly, a revision of or amendment to the Oregon Constitution, local, special or municipal legislation or a proposition or question submitted to the people for their approval or rejection at an election.

(17) "Total District Cost." The total cost to a district for each office and measure filed on the ballot.

[ED. NOTE: Forms referenced are available from the agency.]
 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; ELECT 12-2000, f. & cert. ef. 6-7-00; ELECT 26-2007, f. & cert. ef. 12-31-07; ELECT 14-2009, f. & cert. ef. 6-30-09

165-020-0060

Computation of Costs

(1) The Election Equipment Amortization Worksheet Form SEL 950, SEL 950A, or SEL 950B 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/Average Aggregate Registration Worksheet Form SEL 951 shall be the form used for computing the average number of ballots cast per election for prior four years.

(5) The Allocated Cost Worksheet Form SEL 952 shall be the form used for computing the allocated cost of the election.

(6) The Local Elections Billing Worksheet Form SEL 953 shall be the form used for computing the total district cost.

(7) The Voters' Pamphlet Cost Worksheet Form SEL 955 shall be the form used for computing the voters' pamphlet cost allocated to each district.

[ED. NOTE: Forms referenced are available from the agency.]
 Stat. Auth.: ORS 246.120, 246.150, 246.179, 246.540, 254.046 & 255.305
 Stats. Implemented: ORS 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; ELECT 6-1998, f. & cert. ef. 5-8-98; ELECT 10-2003, f. & cert. ef. 9-3-03; ELECT 14-2009, f. & cert. ef. 6-30-09; ELECT 37-2009, f. & cert. ef. 12-31-09; ELECT 7-2010, f. & cert. ef. 11-1-10

DIVISION 22

COUNTY VOTERS' PAMPHLET

165-022-0000

Definitions

(1) The terms used in this chapter have the same definitions as identified in ORS 251.005(1), (3), (4), (5). For this chapter, 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.

(2) 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.

(3) 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 165-060-3000; ELECT 6-1994, f. & cert. ef. 3-31-94; ELECT 7-2006, f. & cert. ef. 4-18-06

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 is 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) and (e) 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) and (e) 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) and (e) of this section;

(d) For candidates to fill a vacancy when the candidate filing deadline falls after the 61st day before an election — Not later than the candidate filing deadline;

(e) 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 voters' pamphlet for the subsequent runoff election.

(f) For local government measures and explanatory statements — Not later than 5 p.m. on the deadline for filing a notice of measure election;

(g) For arguments in support or opposition to any measure and filing fee or verified petition — Not later than 5 p.m. on the second business day after the deadline for filing a notice of measure election;

(h) 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 business day after the filing deadline.

(5) The text of all arguments shall become public record on the fourth business day after the filing deadline.

Stat. Auth.: ORS 246.150, 251.305 & 251.325

Stats. Implemented: ORS 246.150, 251.305, 251.325 & 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 165-060-3010; ELECT 6-1994, f. & cert. ef. 3-31-94; ELECT 4-1995, f. & cert. ef. 3-10-95; ELECT 11-2001, f. & cert. ef. 5-7-01

165-022-0030

Filing Candidate Statement and Portrait

(1) Any candidate for local office may file a candidate statement and portrait with the county clerk of each county 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) The content of statements shall conform to ORS 251.395:

(a) The names of persons or organizations to be excluded from statements shall conform to ORS 251.405;

(b) Candidate portrait requirements shall conform to ORS 251.075;

(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;

(4) Candidate statements shall be limited to 325 words.

(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 & 251.325

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 165-060-3030; ELECT 6-1994, f. & cert. ef. 3-31-94; ELECT 6-2000, f. & cert. ef. 3-20-00; ELECT 7-2006, f. & cert. ef. 4-18-06

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.

(4) The county clerk shall reject any referred measure submitted without an explanatory statement.

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 165-060-3040; ELECT 6-1994, f. & cert. ef. 3-31-94; ELECT 7-2006, f. & cert. ef. 4-18-06

165-022-0050

Filing Measure Arguments

(1) Any person may file an argument supporting or opposing a measure with each county clerk of the counties in which the local

government that filed the measure is located if the counties 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) The content of arguments shall conform to ORS 251.395:

(4) The names of persons or organizations to be excluded from arguments shall conform to ORS 251.405;

(5) Arguments shall be limited to 325 words.

(6) All materials submitted for inclusion in a county voters' pamphlet shall not exceed 30 square inches of space.

(7) Filing fees or signature petitions for arguments shall be filed with the county clerk at the time of submitting the arguments.

(8) 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.

(9) The filing fees for measure arguments shall be based upon the electoral jurisdiction's registration as of January 1st of the election year.

(10) The filing fees shall be:

(a) For a jurisdiction with voter registration of less than 1,000 within a county — \$100.00;

(b) For a jurisdiction with voter registration between 1,000 and 4,999 within a county — \$200.00;

(c) For a jurisdiction with voter registration between 5,000 and 9,999 within a county — \$250.00;

(d) For a jurisdiction with voter registration between 10,000 and 24,999 within a county — \$350.00;

(e) For a jurisdiction with voter registration over 25,000 within a county — \$400.00;

(11) Refunds of filing fees shall conform to ORS 251.325(5) and the procedures established by the county clerk.

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 165-060-3050; ELECT 6-1994, f. & cert. ef. 3-31-94; ELECT 7-2006, f. & cert. ef. 4-18-06

165-022-0060

Printing and Distributing the County Voters' Pamphlet

(1) The county clerk shall print the voters' pamphlet using a format which allows for equal space for every statement and portrait.

(2) Candidate portraits shall be printed 1.5 inches by 1.75 inches.

(3) Measure arguments may be printed in a continuous running format.

(4) The county clerk may edit any statements or arguments which do not conform to the allocated space and word count requirements.

(5) 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:

(A) Measure arguments shall follow the relating measure; arguments in support are placed first and arguments in opposition shall be placed second and are placed in the order the arguments are received by the county clerk;

(B) The identification of a measure argument and the disclaimer to be included in the county voters' pamphlet shall conform to ORS 251.355.

(b) Candidates. The identification of a candidate statement and the disclaimer to be included in the county voters' pamphlet shall conform to ORS 251.335.

(6) 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.

(7) 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 the jurisdictional boundary of any local government that is involved in an election.

Stat. Auth.: ORS 246.150 & 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 165-060-3060; ELECT 6-1994, f. & cert. ef. 3-31-94; ELECT 6-2000, f. & cert. ef. 3-20-00; ELECT 7-2006, f. & cert. ef. 4-18-06

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 165-060-3070; 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 165-060-3080; ELECT 6-1994, f. & cert. ef. 3-31-94

DIVISION 100

PUBLIC OFFICIALS COMPENSATION COMMISSION

165-100-0035

Statement of Purpose

The purpose of this division is to provide uniform procedures for the selection and notification by the Secretary of State ("Secretary") of electors to be appointed to the Public Officials Compensation Commission ("Commission") as provided for in ORS 292.908.

Stat. Auth.: ORS 292.908

Stats. Implemented: ORS 292.907 & 292.908

Hist.: ELECT 10-2008, f. & cert. ef. 10-23-08

165-100-0040

Conducting the Selection of Names by Lot

No later than May 20 of the year of selection, the Secretary shall arrange for the random selection of 100 names of electors from each congressional district that requires appointment of a new commissioner, or from the statewide registration roll for the at large position. The Secretary may employ an electronic data processing system or device to make the random selection of electors as required by this section. The list compiled shall form the pool of prospective candidates for appointment to the Commission under ORS 292.908.

Stat. Auth.: ORS 292.908

Stats. Implemented: ORS 292.907, 292.908

Hist.: ELECT 10-2008, f. & cert. ef. 10-23-08

165-100-0045

Notifying Persons Selected by Lot

(1) No later than May 31 of the year of selection, the Secretary shall notify by nonforwardable 1st class mail each prospective candidate selected under OAR 165-100-0040. The notification shall contain a response form and prestamped, self-addressed return envelope.

(a) The notification shall include the statutory qualifications for membership on the Commission as specified in ORS 290.907-290.930 and describe the duties of the position under 290.907-290.930.

(b) The notification shall instruct the prospective candidate to certify on the form whether the prospective candidate satisfies the statutory qualifications to serve on the Commission and indicate whether the prospective candidate is willing to serve on the Commission if selected to serve.

(c) The prospective candidate shall be instructed to return the form no later than June 10 of that year.

(d) A prospective candidate, by appropriate indication on the form, may decline to serve on the Commission. The Secretary shall take as conclusive indication that the prospective candidate has declined to serve if the form is not received by the Secretary on or before June 10 of that year. The notification shall include an appropriate notice of this deadline.

(2) The Secretary shall compile a list by open position of each qualified prospective candidate who has timely returned the notification form, and on the form has certified that the prospective candidate satisfies the specified qualifications described in ORS 290.907 and is willing to serve on the Commission.

Stat. Auth.: ORS 292.908

Stats. Implemented: ORS 292.907, 292.908

Hist.: ELECT 10-2008, f. & cert. ef. 10-23-08

165-100-0050

Selecting Candidates for Appointment by Lot

(1) From the list prepared under OAR 165-100-0045(2), the Secretary shall conduct a separate, manual selection at random of all qualified prospective candidates for each open position.

(2) This list shall serve as the list of available candidates for the initial appointment and for filling any vacancy occurring during the term of office for which the initial appointment was made.

Stat. Auth.: ORS 292.908

Stats. Implemented: ORS 292.907, 292.908

Hist.: ELECT 10-2008, f. & cert. ef. 10-23-08

165-100-0055

Term of Appointment

(1) The term of office of each member is four years. A member is eligible for reappointment or reselection.

(2) The term of office for the members first appointed on or after the effective date of Oregon Laws 2007, chapter 901, will begin on July 1, 2008.

(3) Notwithstanding the term of office specified in subsection (1) of this section, the term of office for the members first appointed on or after the effective date of Oregon Laws 2007, chapter 901 will expire on the dates set forth in Oregon Laws 2007, chapter 901, section 4.

Stat. Auth.: ORS 292.908

Stats. Implemented: ORS 292.907, 292.908

Hist.: ELECT 10-2008, f. & cert. ef. 10-23-08

165-100-0060

Appointment to Commission

(1) No later than July 1 of the year of selection, for each open position to which ORS 292.908 applies, the Secretary shall forward to the Commission the name of the first available candidate selected under OAR 165-100-0050 for appointment to the Commission.

(2) In the event that a candidate whose name has been forwarded to the Commission for appointment to the Commission declines the appointment, the Commission shall promptly inform the Secretary, who shall forward to the Commission the name of the next available candidate eligible for appointment to the open position from the list compiled under OAR 165-100-0045.

Stat. Auth.: ORS 292.908

Stats. Implemented: ORS 292.907, 292.908

Hist.: ELECT 10-2008, f. & cert. ef. 10-23-08

165-100-0065

Vacancy on Commission

(1) Whenever a vacancy occurs in any of the positions to which ORS 292.908 applies, the Commission shall promptly notify the Secretary of the vacancy. The Secretary shall forward to the Commission for appointment the name of the next available candidate on the list created in OAR 165-100-0045 or that position. This procedure will be repeated until this list is exhausted.

(2) If the list for a position to which ORS 292.908 applies is exhausted, the Secretary shall create a new list for that position using the most recent voter information available on the Oregon Centralized Voter Registration system. Except for the revision of timelines under this section, the process for compiling the data file of records of electors by congressional district, conducting the selection by lot, notifying electors selected, determining appointees, and forwarding to the Commission the certified list of the name of the elector selected shall be substantially the same as specified in OAR 165-100-0035 through 165-100-0065.

Stat. Auth.: ORS 292.908

Stats. Implemented: ORS 292.907-292.930

Hist.: ELECT 10-2008, f. & cert. ef. 10-23-08

