



NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 165

**SECRETARY OF STATE
ELECTIONS DIVISION**

FILED: 09/16/2026 1:43 PM

ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Repealing rule allowing for notarized testimony in lieu of hearing.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/06/2026 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:

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HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 10/16/2026

TIME: 12:30 PM - 1:00 PM

OFFICER: Russell Buttram

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 503-446-4951

CONFERENCE ID: 869777436

SPECIAL INSTRUCTIONS:

Passcode: a7ZP2Mb7

NEED FOR THE RULE(S):

The repeal of this rule is needed to ensure respondents are afforded proper due process rights. The process and framework ensuring appropriate rights are preserved are found in OAR 165-001-0047, so this rule is no longer needed.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

This rule promotes racial equity by protecting against implicit bias and ensuring that the same guidelines and procedures apply consistently to all parties.

FISCAL AND ECONOMIC IMPACT:

The repeal of this rule does not create any additional requirements for affected parties. Parties will still have an opportunity to submit notarized testimony when the process outlined in OAR 165-001-0047 is followed. The fiscal and economic impact of these rules on affected parties is expected to be minimal.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) The repeal of this rule may impact the state Elections Division. The Elections Division anticipates needing to answer questions and assist respondents in understanding that their right to notarized testimony must be exercised under the framework set out by OAR 165-001-0047.

(2)(a)-(c) These rules regulate parties involved in the contested case process. While small businesses may be involved in providing services to regulated entities (candidates, political action committees, etc.), they typically pass incurred costs on to their clients, the regulated entities. As such, these rules do not regulate small businesses as a class. Further, the costs they would incur and pass on to the regulated entity are dependent on the specific facts of their unique choices and circumstances and cannot be readily determined.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Small businesses were not involved in the development of these rules because these rules do not directly affect small businesses as a class.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

A rules advisory committee was not required to be convened.

REPEAL: 165-001-0034

RULE SUMMARY: This filing proposes repeal of the rule. The law allows for a person who requested an in-person, telephone, or video conference hearing to pivot to notarized testimony instead of appearing at the hearing; that process is retained and outlined in OAR 165-001-0047. The notarized testimony hearing framework in this rule is not contemplated by the law.

CHANGES TO RULE:

~~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 Hearing Request Form.¶¶
 - (c) Be notarized by a commissioned Notary Public.¶¶
- (4) After the party submits notarized testimony, the Agency may submit notarized testimony and any exhibits to the Office of Administrative Hearings (OAH) and to the individual who submitted notarized testimony. If the Agency submits notarized testimony, it will be transmitted via email to the party and via the OAH hearing portal to OAH. The Agency may mail its notarized testimony to the party's last known address if the party's email address is unknown or the e-mail is returned as undeliverable.¶¶
- (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 commissioned 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 e-mailed or mailed). The rebuttal testimony may be hand-delivered, mailed, faxed or attached to an email and sent to orestar-support.sos@oregon.gov.¶¶
 - (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.¶¶
- (7) The deadline to issue a final order when notarized testimony is submitted in lieu of an in person or telephone hearing is not later than 90 days after the hearing record is closed.
- Statutory/Other Authority: ORS 246.150
- Statutes/Other Implemented: ORS 260.232, 260.995