



NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 165

**SECRETARY OF STATE
ELECTIONS DIVISION**

FILED: 09/17/2026 8:33 AM

ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Outlines and updates the contested case process.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/16/2026 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:

Russell Buttram
Rules Coordinator

HEARING(S)

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

DATE: 10/16/2026

TIME: 8:30 AM - 9:00 AM

OFFICER: Russell Buttram

REMOTE HEARING DETAILS

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

PHONE NUMBER: 503-446-4951

CONFERENCE ID: 509430535

SPECIAL INSTRUCTIONS:

Passcode: LN97Aj6f

NEED FOR THE RULE(S):

The proposed amendments to these rules are necessary to provide uniform procedures for conducting contested case processes, including conducting administrative hearings. The proposed changes will ensure uniform and transparent

application of the law by establishing uniform definitions, clarifying who may participate in contested case proceedings, and outlining the procedures respondents must follow when requesting hearings.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

HB 4018 (2026)

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 proposed amendments clarify the existing contested case processes. The majority of the proposed amendments to these administrative rules do not create additional requirements beyond those found in statute therefore, the fiscal and economic impact of these rules to 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 creation of new administrative rules and changes to existing rules may create an economic impact on the state Elections Division and respondents seeking to access the contested case process. The Elections Division anticipates needing to answer questions and assist respondents in understanding their rights and access to the contested case process outlined in these rules.

(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 is 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?

The Elections Division sought feedback from a RAC when developing rules to implement HB 4024 (2024). These rules are a continuation of that effort and another RAC was not convened.

RULES PROPOSED:

165-001-0009, 165-001-0010, 165-001-0015, 165-001-0016, 165-001-0025, 165-001-0035, 165-001-0036, 165-001-0040, 165-001-0045, 165-001-0047, 165-001-0050, 165-001-0055, 165-001-0080

AMEND: 165-001-0009

RULE SUMMARY: The proposed rule changes implement House Bill 4018 (2026) by specifying that any penalties

imposed, including those under HB 4018, as well as any related contested case proceedings, must comply with the procedures established in these administrative rules. One existing rule in this series has also been renamed for clarity and renumbered to align with chronological order.

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CHANGES TO RULE:

165-001-0009

Definitions ¶

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

(1) "Agency" means Secretary of State, Elections Division and any employee thereof.¶

(2) "Charging document" means any document issued by the Secretary of State, Elections Division, agency stating that any person or government agency has violated the laws or rules within this Agency's jurisdiction.¶

(23) "Agency" means Secretary of State, Elections Division and any employee thereof. "Person" has the same definition provided in ORS 260.005.¶

(4) "Respondent" is an individual against whom a charging document has been issued.

Statutory/Other Authority: ORS 246.150, Sections 24-25, Chapter 139, Oregon Laws 2026

Statutes/Other Implemented: ORS 260.232, ORS 260.995, Sections 24-25, Chapter 139, Oregon Laws 2026

AMEND: 165-001-0010

RULE SUMMARY: The proposed rule changes implement House Bill 4018 (2026) by specifying that any penalties imposed, including those under HB 4018, as well as any related contested case proceedings, must comply with the procedures established in these administrative rules. One existing rule in this series has also been renamed for clarity and renumbered to align with chronological order.

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CHANGES TO RULE:

165-001-0010

Access to the Contested Case Process ¶

~~(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, ORS 260.285, or ORS 260.995.¶~~

~~(2) The Secretary of State to:¶~~

~~(a) The agency.¶~~

~~(b) The respondent as defined in OAR 165-001-0009(4).¶~~

~~(2) The agency may designate, in writing, employees of the agency or any other persons to conduct represent the agency in hearings under these rules.¶~~

~~(3) The person or persons against whom a penalty may be assessed. OAR 165-001-0036 provides additional information regarding employee representation at contested case hearings.¶~~

~~(3) The person described in section (1) of this rule 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, covered organization, authorized representative, or a combination of individuals having collective capacity.~~

~~Statutory/Other Authority: ORS 183.335, 183.360, 183.413, 246.150, ORS 260.232, 260.285, 260.995 246.150, Sections 24-25, Chapter 139, Oregon Laws 2026~~

~~Statutes/Other Implemented: ORS 183.745, ORS 260.232, ORS 260.285, 260.995 995, Sections 24-25, Chapter 139, Oregon Laws 2026~~

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CHANGES TO RULE:

165-001-0015

Notice of Opportunity for Hearing ¶¶

When the ~~Secretary of State proposes to impose a civil penalty or~~ agency finds a violation of an election law, ~~or both, and proposes to impose a civil penalty~~ under ORS 260.232, ORS 260.285, ~~or ORS 260.995, the Secretary of State~~ 995 or Section 25, chapter 139, Oregon Laws 2026, the agency shall cause a notice to be served on the person(s) subject to the penalty. For a violation under ORS 260.232 the notice shall be served by electronic or first-class mail; for a violation under ORS 260.285 ~~or ORS 260.995~~ 995, or Section 25, chapter 139, Oregon Laws 2026 the notice shall be served by certified mail. The notice shall include:¶

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

(2) A statement that if the ~~person~~ respondent desires a hearing, the agency must be notified within the number of days provided in ORS 260.232(3)(a), ~~ORS 260.285 or 260.99~~ 260.995(6)(a), or Section 25(45)(a), chapter 139, Oregon Laws 2026, whichever is applicable.¶

(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~~ respondent may be represented by counsel at the hearing.¶

(8) If the ~~person is an~~ respondent is a government agency, corporation or an unincorporated association, that ~~such person~~ respondent must be represented by an attorney licensed in Oregon.¶

(9) If the ~~person~~ respondent is a political committee subject to a civil penalty under ORS 260.995, that ~~person~~ respondent may be represented by any officer identified in the most recent statement of organization filed with the filing officer. "Officer" means any person identified as a director on the most recent statement of organization for a political committee.¶

(10) 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.¶

(11) ~~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, 260.285 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 ORS 260.232(6), 260.285(6) and 260.995(5).¶~~

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

Statutory/Other Authority: ~~ORS 183.090, 183.470, 246.150, 260.285~~ 246.150, Sections 24-25, Chapter 139, Oregon Laws 2026

Statutes/Other Implemented: ~~ORS 183.3413, ORS 183.470, 260.232, 260.285, 260.995~~ 15, ORS 183.745, ORS 260.232, ORS 260.995, Sections 24-25, Chapter 139, Oregon Laws 2026

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CHANGES TO RULE:

165-001-0016

Requesting a Hearing.¶¶

- (1) If a ~~party~~respondent wishes to request an ~~in-person or telephone~~ hearing to contest the allegations in the charging document, they must submit to the ~~Agency~~ a signed Hearing Request Form and 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 that may apply and indicate specifically what facts or transactions the mitigating circumstance applies to. ¶¶
- (b) A general denial is not sufficient to constitute an answer. ¶¶
- (c) ~~The person must choose whether they want the hearing by telephone or in person. If no choice is indicated on the form, the hearing will be held by telephone.¶¶~~
- (~~d~~) Any evidence of a mitigating circumstance or other relevant evidence may be submitted with the answer as exhibits. ¶¶
- (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~~respondent. ¶¶
- (4) The failure of the ~~party~~respondent to raise a mitigating circumstance in the answer is a waiver of such mitigating circumstance. ¶¶
- (5) The ~~party~~respondent 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. ¶¶
- (8) ~~The person against whom a civil penalty may be assessed need not appear in person or by telephone at a hearing held under ORS 260.232, ORS 260.285 or 260.995, but instead may submit written notarized testimony as provided in OAR 165-001-0015(11). The Elections Division may also submit notarized testimony. The Elections Division notarized testimony must be received by the Office of Administrative Hearings not later than 5:00 p.m. on the scheduled date of the hearing. If the Elections Division does not submit notarized testimony, the Elections Division exhibits become part of the case file and may establish the basis for liability. Hearings will be conducted by video teleconference unless the respondent specifically requests a personal appearance or telephone hearing type when requesting a hearing. ¶¶~~
- (9) Form SEL 850 is the Hearing Request Form, Campaign Finance Transactions ~~to that must~~ be used to request an ~~in-person or telephone hearing, or submit notarized testimony~~ video teleconference hearing, personal appearance hearing, or telephone hearing to contest campaign finance transaction violations. ¶¶
- (10) Form SEL 851 is the Hearing Request Form, Other Campaign Finance Violations ~~to that must~~ be used to request an ~~in-person or telephone hearing, or submit notarized testimony~~ video teleconference hearing, personal appearance hearing, or telephone hearing to contest campaign finance violations, other than those violations relating to late or insufficient campaign finance transactions. ¶¶
- (11) Form SEL 852 is the Hearing Request Form, Non-Campaign Finance Violations, ~~to that must~~ be used to request an ~~in-person or telephone hearing, or submit notarized testimony~~ video teleconference hearing, personal appearance

hearing, or telephone hearing to contest non-campaign finance violations.[¶]

(12) Form SEL 853 is the Hearing Request Form, Disclosure Violations, to contest non-campaign finance violations that must be used to request a video teleconference hearing, personal appearance hearing, or telephone hearing to contest violations of ORS 260.266.

Statutory/Other Authority: ORS 246.150, 260.285 Sections 24-25, Chapter 139, Oregon Laws 2026

Statutes/Other Implemented: ORS 183.415, ORS 260.232, ORS 260.285, 260.995 995, Sections 24-25, Chapter 139, Oregon Laws 2026

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CHANGES TO RULE:

165-001-0025

Orders When No Hearing Requested, Hearing is Cancelled, or Failure to Appear at Hearing ¶

(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.¶

~~(2) The time provided by statute to request a hearing under ORS 260.995 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.¶~~

~~(3) The time provided by statute to request a hearing under ORS 260.232 is 20 calendar days after the service date on the charging document.¶~~

~~(4)~~ 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 that~~ 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.¶

~~(5)~~ 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.¶

~~(6)~~ 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.¶

~~(7)~~ 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.¶

~~(8)~~ The deadline to issue a Final Order by Default if there is no hearing request, the hearing is cancelled or the party fails to appear at the hearing is not later than the 90th day after the deadline to request a hearing.¶

~~(9)~~ 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.¶

~~(10)~~ 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.¶

~~(119)~~ 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.¶

~~(120)~~ 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), ~~260.285, or 260.995(6)~~ 995(8), or Section 25(7), chapter 139, Oregon Laws 2026.

Statutory/Other Authority: ~~ORS 183.090, ORS 183.470, 246.150, 260.232, 260.995, 260.285~~ 246.150, Sections 24-25, Chapter 139, Oregon Laws 2026

Statutes/Other Implemented: ~~ORS 183.470, 17, ORS 183.470, ORS 260.232, ORS 260.995, 260.285~~ Sections 24-25, Chapter 139, Oregon Laws 2026

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CHANGES TO RULE:

165-001-0035

Conducting Contested Case Hearings Roles & Responsibilities

(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 (~~713~~), 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~~ respondent;¶¶

(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~~ respondent 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, repetitious, 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.

Statutory/Other Authority: ORS 246.150, ~~260.232, 260.995~~ Sections 24-25, Chapter 139, Oregon Laws 2026

Statutes/Other Implemented: ORS 260.232, ORS 260.995, Sections 24-25, Chapter 139, Oregon Laws 2026

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CHANGES TO RULE:

165-001-0036

Employee Representation at Contested Case Hearings ¶¶

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

(2) An ~~A~~agency employee may represent the ~~A~~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, 260.112, 260.118, 260.275, ~~260.281 and 260.285~~.¶¶

(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 ~~A~~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 ~~A~~agency to hear the contested case;¶¶

(b) The constitutionality of a statute or rule or the application of a constitutional requirement to the ~~A~~agency; and¶¶

(c) The application of court precedent to the facts of the ~~particular~~ contested case proceeding.¶¶

(5) When an employee represents the ~~A~~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.

Statutory/Other Authority: ORS 246.150, Sections 24-25, Chapter 139, Oregon Laws 2026

Statutes/Other Implemented: ORS 183.452, ORS 260.232, ORS 260.995, ~~ORS 260.285~~ Sections 24-25, Chapter 139, Oregon Laws 2026

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CHANGES TO RULE:

165-001-0040

Evidentiary Rules II

(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(7), 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.

Statutory/Other Authority: ORS 246.150, ~~260.232, 260.995~~ Sections 24-25, Chapter 139, Oregon Laws 2026

Statutes/Other Implemented: ORS 183.450, ~~183.470~~, ORS 260.232, ORS 260.995, Sections 24-25, Chapter 139, Oregon Laws 2026

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CHANGES TO RULE:

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 officer, 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.

Statutory/Other Authority: ORS 246.150, ~~260.232, 260.995~~ Sections 24-25, Chapter 139, Oregon Laws 2026

Statutes/Other Implemented: ORS 183.417, ORS 183.685, ORS 260.232, ORS 260.995, Sections 24-25, Chapter 139, Oregon Laws 2026

RULE SUMMARY: This rule reflects requirements previously addressed in OAR 165-001-0080.

The proposed rule changes implement House Bill 4018 (2026) by specifying that any penalties imposed, including those under HB 4018, as well as any related contested case proceedings, must comply with the procedures established in these administrative rules. One existing rule in this series has also been renamed for clarity and renumbered to align with chronological order.

The rules define key terms used in the contested case process to ensure consistent application; identify the parties who may access the contested case process; and outline how respondents may request administrative hearings. Additionally, the rules specify the roles and responsibilities of participants in the process, including conditions for agency representation by employees, and set standards for managing ex parte communications.

CHANGES TO RULE:

165-001-0047

Contested Case Hearings

(1) The administrative law judge will hold a hearing by video teleconference unless the party requesting the hearing specifically requests a personal appearance hearing or telephone hearing. Personal appearance hearings 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 video teleconference or telephone while others attend in person.¶

(2) All hearings under this rule shall be held not later than 45 days after the deadline for the party to request a hearing. However, if requested by the party, a hearing under this rule shall be held not later than 60 days after the deadline for the party to request a hearing.¶

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

(4) 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, facsimile, or email. Delivery may also be accomplished by first-class mail, certified mail, or professional delivery service if the sending party guarantees the receipt by the deadline.¶

(5) For a hearing held under ORS 260.232, ORS 260.995 or Section 25, chapter 139, Oregon Laws 2026, a respondent requesting the hearing does not need to appear in person, but instead may submit written testimony and other evidence, sworn to before a notary public, to the agency for entry in the hearing record. Such documents must be received by the agency not later than three business days prior to the hearing as provided by ORS 260.232(6), ORS 260.995(7), or Section 25(6), chapter 139, Oregon Laws 2026. ¶

(a) The agency may also submit notarized testimony. The agency notarized testimony must be received by the Office of Administrative Hearings not later than 5:00 p.m. on the scheduled date of the hearing. If the agency does not submit notarized testimony, the agency exhibits become part of the case file and may establish the basis for liability. ¶

(b) The respondent may, but is not required to, respond to the agency notarized 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 delivered by certified mail). The rebuttal testimony may be hand-delivered, mailed, faxed or attached to an email and sent to orestar-support.sos@sos.oregon.gov. ¶

(c) When the respondent elects to provide notarized testimony rather than appear at a personal appearance or telephone hearing, the hearing record is deemed closed the day after the deadline for the person to submit rebuttal testimony. ¶

(6) 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.¶

(7) 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.¶

(8) When a personal appearance or telephone hearing is held, the Administrative Law Judge will determine when the hearing record is complete and the hearing is adjourned.

Statutory/Other Authority: ORS 246.150, Sections 24-25, Chapter 139, Oregon Laws 2026

Statutes/Other Implemented: ORS 183.417, ORS 260.232, ORS 260.995, Sections 24-25, Chapter 139, Oregon Laws 2026

AMEND: 165-001-0050

RULE SUMMARY: The proposed rule changes implement House Bill 4018 (2026) by specifying that any penalties imposed, including those under HB 4018, as well as any related contested case proceedings, must comply with the procedures established in these administrative rules. One existing rule in this series has also been renamed for clarity and renumbered to align with chronological order.

The rules define key terms used in the contested case process to ensure consistent application; identify the parties who may access the contested case process; and outline how respondents may request administrative hearings. Additionally, the rules specify the roles and responsibilities of participants in the process, including conditions for agency representation by employees, and set standards for managing ex parte communications.

CHANGES TO RULE:

165-001-0050

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

For contested cases under ORS 260.232, ORS 260.995 or Section 25, chapter 139, Oregon Laws 2026:¶¶

(1) The administrative law judge shall prepare a proposed order and serve the proposed order on the agency and each party respondent. The proposed order shall be served not later than 30 calendar days after the hearing is adjourned ~~or closed~~ under OAR 165-001-0034(5)(d)47. 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) The exceptions must be received by the Elections Division not later than 30 calendar days after the service date of the proposed order. The date of service is the day the proposed order is mailed, not the date the party respondent receives the proposed order.¶¶

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

(4) Written exceptions filed under (2) or (3) may be scanned and attached to an email and sent to orestar-support.sos@sos.oregon.gov, transmitted by fax (503-373-7414), mailed or hand-delivered to 255 Capitol St NE, Ste 501, Salem or provided through the methods described in OAR 97310165-002-0025.¶¶

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

Statutory/Other Authority: ORS 183.090, 183.470, 246.150, 260.232, 260.995, 246.150, Sections 24-25, Chapter 139, Oregon Laws 2026

Statutes/Other Implemented: ORS 183.4760, ORS 183.464, ORS 260.232, ORS 260.995, Sections 24-25, Chapter 139, Oregon Laws 2026

RULE SUMMARY: The proposed rule changes implement House Bill 4018 (2026) by specifying that any penalties imposed, including those under HB 4018, as well as any related contested case proceedings, must comply with the procedures established in these administrative rules. One existing rule in this series has also been renamed for clarity and renumbered to align with chronological order.

The rules define key terms used in the contested case process to ensure consistent application; identify the parties who may access the contested case process; and outline how respondents may request administrative hearings. Additionally, the rules specify the roles and responsibilities of participants in the process, including conditions for agency representation by employees, and set standards for managing ex parte communications.

CHANGES TO RULE:

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.¶

(l) 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.

Statutory/Other Authority: ~~ORS 183.090, 183.470, 246.150, 260.232, 260.995~~ 246.150, Sections 24-25, Chapter 139, Oregon Laws 2026

Statutes/Other Implemented: ORS 183.470, ORS 183.480, ORS 183.482, ORS 260.232, ORS 260.995, Sections 24-25, Chapter 139, Oregon Laws 2026

RULE SUMMARY: This rule is repealed and the relevant content has been moved to OAR 165-001-0047.

CHANGES TO RULE:

~~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.~~

~~Statutory/Other Authority: ORS 260~~

~~Statutes/Other Implemented: ORS 260.232, 260.995~~