



NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 165

**SECRETARY OF STATE
ELECTIONS DIVISION**

FILED: 09/17/2026 9:21 AM

ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Centralizing contested case proceedings.

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.

CONTACT:

Russell Buttram
503-986-1518
elections.sos@sos.oregon.gov
255 Capitol St NE
Ste 126
Salem, OR 97310

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: 10/19/2026

TIME: 12:00 PM - 12:30 PM

OFFICER: Russell Buttram

REMOTE HEARING DETAILS

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

PHONE NUMBER: 503-446-4951

CONFERENCE ID: 372975294

SPECIAL INSTRUCTIONS:

Passcode: XY3to2EE

NEED FOR THE RULE(S):

The proposed amendments to this rule are necessary to provide uniform procedures for conducting contested case processes. The proposed changes will ensure uniform and transparent application of the law by establishing a uniform

process for conducting contested case proceedings and requesting hearings.

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 regulated stakeholders.

FISCAL AND ECONOMIC IMPACT:

The proposed amendments centralize the existing contested case process. This change does not create additional requirements. 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 changes to existing rules may create an economic impact on the state Elections Division in the event that a respondent has questions about changes to these rules. Respondents will retain the same rights, so the changes to this rule are not expected to create an economic impact for those persons.

(2)(a)-(c) The changes to this rule affect parties involved in the contested case process. While small businesses may be involved in providing services to regulated stakeholders, 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.

AMEND: 165-012-0525

RULE SUMMARY: The proposed rule changes remove the sections that outline the contested case process for penalties imposed under ORS 260.266 and OAR 165-012-0525. The proposed rule changes also remove sections that outline how a respondent may request a hearing. These sections have been added to OAR Chapter 165, Division 013 and OAR Chapter 165, Division 001. These changes will ensure all contested case proceedings, including the assessment of civil penalties, issuance of proposed civil penalties, and hearing requests are processed in the same way the Elections Division handles other contested case proceedings.

CHANGES TO RULE:

Application of ORS 260.266 - Campaign Advertising Disclosures

(1) The purpose of this rule is to establish guidelines for the implementation of ORS 260.266.¶

(2) Definitions:¶

(a) "de minimis" means having a fair market value of approximately \$1.00 or less.¶

(b) "Digital communication" means a communication that is placed or promoted on an internet or digital platform, including but not limited to search engine marketing, display advertisements, video or audio advertisements, native advertising, and sponsorships. For purposes of the preceding sentence, internet or digital platform' means a public-facing website, internet-enabled application, or other digital application, including but not limited to a social network, ad network, or search engine that displays, or causes to be displayed, digital communications.¶

(c) "Name" means:¶

(A) For candidates, the full name of the candidate's principal campaign committee as the committee is registered in ORESTAR.¶

(B) For political action committees and petition committees, the full name of the committee as the committee is registered in ORESTAR.¶

(C) For organizations, the full name by which the organization is registered with the Oregon Secretary of State's Office, Corporations Division, or comparable agency in the applicable state. If the organization does business under a different name, as reflected in the organization's website or social media, then that name shall be included in the disclosure.¶

(D) For groups of individuals or other entities not set out in sections 2(c)(A) through (C) above, the name the group or entity most often uses in conjunction with their website or social media accounts, or used in conjunction with their financial records or other official business documentation.¶

(d) "Payment" means "expenditure" as defined and treated under Oregon election law.¶

(e) "Wearable merchandise" includes but is not limited to any form of clothing, hats, gloves, scarves, masks and other face coverings.¶

(f) "Lawn signs" means signs 6 square feet in size or smaller.¶

(3) Excluded items:¶

(a) Subject to section (3)(b) below, an item is "too small" to feasibly include the disclosures required by ORS 260.266 and this rule if the required information cannot be printed, engraved, or otherwise included on the item using the standards set out in this rule relating to readability.¶

(b) Notwithstanding the exemptions in section (6) of this rule, the following are not considered too small to include the disclosures required by ORS 260.266 and this rule: any communication, distributed in print or other format, such as by social media, television advertisements, and printed advertisements in a newspaper or other publication.¶

(c) Text messages sent by an individual.¶

(d) Payments for a communication may not be purposefully split to qualify for the \$500 exemption described in ORS 260.266(7)(b)(B)(ii). ¶

(4) Printed or digital disclosures required by ORS 260.266 must be easy to read, if the communication appears in a print or digital format, and shall incorporate the following:¶

(a) The format of the disclosure shall be in sentence form, and include information required by statute and rule. The disclosure shall read: "Paid for by", followed by the required information. If the names of contributors or donors are required, that disclosure shall immediately follow the disclosure about who paid for the communication, and read: "The top contributors are" or "The top donors are", whichever is applicable, followed by the names of the top five contributors or donors, or less than five, if there are not five contributors or donors who have made aggregate contributions or donations of \$10,000 or more in the election cycle in which the communication is made.¶

(b) The font style of the disclosure shall be one that is generally recognizable and discernable. Fonts that can be read by software applications only if the particular font has been purchased by the reader are not acceptable.¶

(c) The font size of printed disclosures on communications including mailers, postcards, and flyers shall be no smaller than 10-point font.¶

(d) The font size of printed disclosures on communications such as billboards and signs larger than six square feet shall be no smaller than:¶

(A) Three inches tall; or¶

(B) One-fourth of the font size of the largest font size in the communication. ¶

(C) For purposes of complying with section (4)(d) of this rule, it is acceptable for only the tallest letters in the disclosure to meet the font size requirements as long as the shorter letters are proportional to the size of the tallest letters.¶

(e) The font size for a digital disclosure shall be in letters at least as large as the majority of text in the communication.¶

(f) The color of the font must have a reasonable degree of color contrast between the background and the printed

disclosure.¶

(g) A disclosure need not appear on the front page or cover of a multiple-page document, as long as the disclosure appears within the communication.¶

(h) Each communication that would require a disclosure if distributed separately must still display the disclosure when included in a package of materials.¶

(i) Television communications must contain a clearly readable written disclosure that appears at the end of the communication, for a period of at least four seconds with a reasonable degree of color contrast between the background and the disclosure statement. The written disclosure must occupy at least four percent of the vertical picture height.¶

(5) Audio disclosures required by ORS 260.266 must be clearly audible and shall incorporate the following:¶

(a) The format of the disclosure shall be in sentence form, and include information required by statute and rule. The disclosure shall state: "Paid for by", followed by the required information. If the names of contributors or donors are required, that disclosure shall immediately follow the disclosure about who paid for the communication and state: "The top contributors are" or "The top donors are", whichever is applicable, followed by names of the top five contributors or donors, or less than five, if there are not five contributors or donors who have made aggregate contributions or donations of \$10,000 or more in the election cycle in which the communication is made.¶

(b) Closed or text captioning where possible.¶

(c) The disclosure should be in a volume and cadence sufficient for a reasonable person to hear and understand it. The volume of the disclosure can be evaluated in relation to the rest of the message.¶

(6) If the communication described in ORS 260.266 includes both audio and visual components that are communications in support of or in opposition to a clearly identified candidate, the communication shall:¶

(a) If over 30 seconds long, comply with both sections (4) and (5) of this rule regardless of the medium;¶

(b) If 30 seconds or less and not a digital communication, comply with both sections (4) and (5) of this rule except for the provision requiring top contributors or donors to be audibly disclosed; or¶

(c) If 30 seconds or less and a digital communication, comply with either:¶

(A) Both sections (4) and (5) of this rule except for the provision requiring top contributors or donors to be audibly disclosed; or¶

(B) Only section (7) of this rule except that the active link included in the statement does not need to be audibly disclosed.¶

(7) To satisfy the requirements of ORS 260.266(2)(d), the digital communication shall:¶

(a) State the name of the person that paid for the digital communication; and¶

(b) Include an active link for the recipient of the digital communication to immediately view the remainder of the information required under ORS 260.266 and this rule with minimal effort. The link must meet the same requirements for legibility set forth in ORS 260.266 and this rule.¶

(8) Notwithstanding ORS 260.266(4)(b), for the purposes of identifying contributors or donors required to be disclosed, the person making the communication shall disclose the names of the top aggregate contributors or donors. If more than five qualify as the largest aggregate contributors or donors, the person making the communication shall disclose the names of the contributors or donors that made their contributions or donations closest to the date of initial printing or transmission of the communication.¶

(9) Nothing in this rule prevents a person from re-using communications previously created so long as the disclosure displayed on the communication is accurate as of 10 days before the most recent payment to print or transmit the communication.¶

~~(10) For purposes of assessing civil penalties in connection with violations of ORS 260.266 and this administrative rule, the person who paid for the communication shall be financially responsible for those civil penalties. If more than one person paid for the communication, all of those people shall be held jointly and severally responsible for those civil penalties.¶~~

~~(a) If civil penalties are assessed for violation(s) of ORS 260.266, the following mitigating circumstances will be considered:¶~~

~~(A) The violation is a direct result of a valid personal emergency of the candidate, treasurer, independent expenditure filer, or other individual responsible for making the required disclosure(s). A valid personal emergency is an emergency, such as a serious personal illness or death in the immediate family of the candidate, treasurer, independent expenditure filer or other responsible individual which caused the violation to occur. A valid 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 Secretary of State's Office, Elections Division;¶~~

~~(C) The violation is the direct result of fire, flood, utility failure or other calamitous event, resulting in physical destruction of, or inaccessibility to, campaign finance 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;¶~~

~~(D) 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; and ¶~~
~~(E) The violation is the direct result of the failure of a person charged with or hired to produce the communication. ¶~~
~~(b) 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. ¶~~
~~(c) Form SEL 853 (attached) is the form to be used to request an in-person or telephone hearing, or submit notarized testimony, to contest violations of ORS 260.266. ¶~~
~~(d) Civil penalties assessed in connection with violations of ORS 260.266 and this administrative rule may be assessed during the election cycle and are not required to be held in abeyance until the end of an election cycle. ¶~~
~~(11) A committee or independent expenditure filer previously exempt from the requirements set forth in ORS 260.266 and this rule must include the appropriate disclosure on any communication made after exceeding the applicable contribution or expenditure threshold. ¶~~
~~(12) The requirements of ORS 260.266 and this rule apply regardless of the language in which the communication is made. The disclosures must be in the same language as the communication. If more than one language is used, the disclosure must be in all languages the communication is made in.~~
Statutory/Other Authority: ~~ORS 183.341, ORS 183.470, ORS 246.150, ORS 260.266~~
Statutes/Other Implemented: ~~ORS 260.266, ORS 260.995~~