

OFFICE OF THE SECRETARY OF STATE

LAVONNE GRIFFIN-VALADE  
SECRETARY OF STATE

CHERYL MYERS  
DEPUTY SECRETARY OF STATE  
AND TRIBAL LIAISON



ARCHIVES DIVISION

STEPHANIE CLARK  
DIRECTOR

800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION  
**ELECT 21-2024**  
CHAPTER 165  
SECRETARY OF STATE  
ELECTIONS DIVISION

**FILED**  
11/06/2024 10:28 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Suspension of Covered Organization administrative rules.

EFFECTIVE DATE: 11/06/2024 THROUGH 05/04/2025

AGENCY APPROVED DATE: 09/10/2024

CONTACT: Coline Benson  
503-986-1518  
elections.sos@sos.oregon.gov

255 Capitol St NE  
ste 126  
Salem, OR 97310

Filed By:  
Coline Benson  
Rules Coordinator

NEED FOR THE RULE(S):

HB 4024, Section 16 repealed ORS 260.275, 260.281, and 260.285. Thus, the rules implementing these statutes are no longer needed. This temporary filing suspends the rules effective immediately.

JUSTIFICATION OF TEMPORARY FILING:

HB 4024, Section 16 repealed ORS 260.275, 260.281, and 260.285 effective June 6, 2024. Failure to suspend these administrative rules promptly will cause confusion for voters and the filers previously regulated by this statutory and regulatory framework.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

HB 4024 (2024) available online at [oregonlegislature.gov](http://oregonlegislature.gov) or from the Elections Division.

RULES:

165-012-0500, 165-012-0505, 165-012-0510, 165-012-0515, 165-012-0520, 165-012-0530

SUSPEND: 165-012-0500

RULE TITLE: Applicability of Elections Divisions Rules

RULE SUMMARY: HB 4024, Section 16 repealed ORS 260.275, 260.281, and 260.285. Thus, the rules implementing these statutes are no longer needed. This temporary filing suspends the rule effective immediately. The Division is also filing permanent rules to repeal the rule permanently.

RULE TEXT:

Unless otherwise provided in rules 165-012-0505 through 165-012-0530, the administrative rules set out in OAR Chapter 165, Division 001, apply to filings, notices, hearings, and other applications of Oregon election law to Covered Organizations and their Authorized Representative(s). In the event of a potential conflict, ORS 260.275, ORS 260.281, ORS 260.285 and these administrative rules OAR 165-012-0050 through 165-012-0530 will control.

STATUTORY/OTHER AUTHORITY: ORS 183.341, 246.150, 260.281

STATUTES/OTHER IMPLEMENTED: ORS 260.275, 260.281, 260.285

SUSPEND: 165-012-0505

RULE TITLE: Definitions

RULE SUMMARY: HB 4024, Section 16 repealed ORS 260.275, 260.281, and 260.285. Thus, the rules implementing these statutes are no longer needed. This temporary filing suspends the rule effective immediately. The Division is also filing permanent rules to repeal the rule permanently.

RULE TEXT:

(1) "Address" means street number and name, or rural route number or post office box, and city and state, plus zip code if available, where the person may be found or receives mail. For individual donors, address means the physical place where the individual receives correspondence, which might include but is not limited to the following: personal residence, post office box, place of business, or place of employment.

(2) An "anonymous donation" is one that the covered organization cannot reasonably attribute to or associate with a donor by virtue of any identifying information, including the donor's name, address or location.

(3) "Authorized Representative" means any person who has:

(a) actual oral or written authority, either express or implied, to make or to authorize the action of any person or entity, including but not limited to a covered organization; or

(b) been placed in a position within entity or on behalf of a person where it would reasonably appear that in the ordinary course of business or political activities the person may authorize the conduct or action.

(4) "Donation" has the meaning given in ORS 260.275(4).

(5) "Name" means any identifying label or other information which a person or organization is known by or responds to.

(6) The phrase "For a particular" means in support of, in opposition to, or stating a neutral position regarding a specified legislative race, measure, political committee, or statewide race or state office for purposes of complying with ORS 260.275, ORS 260.281 and ORS 260.285.

STATUTORY/OTHER AUTHORITY: ORS 246.150, 260.281

STATUTES/OTHER IMPLEMENTED: ORS 260.275, 260.281, 260.285

SUSPEND: 165-012-0510

RULE TITLE: Forms Required

RULE SUMMARY: HB 4024, Section 16 repealed ORS 260.275, 260.281, and 260.285. Thus, the rules implementing these statutes are no longer needed. This temporary filing suspends the rule effective immediately. The Division is also filing permanent rules to repeal the rule permanently.

RULE TEXT:

Covered organizations shall use the forms designated by the Secretary of State's Office for use in complying with ORS 260.275, ORS 260.281 and ORS 260.285 and administrative rules OAR 165-012-0500 through 165-012-0530.

STATUTORY/OTHER AUTHORITY: ORS 246.150, 260.281

STATUTES/OTHER IMPLEMENTED: ORS 260.275, 260.281, 260.285

SUSPEND: 165-012-0515

RULE TITLE: Deadlines

RULE SUMMARY: HB 4024, Section 16 repealed ORS 260.275, 260.281, and 260.285. Thus, the rules implementing these statutes are no longer needed. This temporary filing suspends the rule effective immediately. The Division is also filing permanent rules to repeal the rule permanently.

RULE TEXT:

(1) ORS 246.021 applies to the forms and other information that must be filed with the Secretary of State for purposes of complying with ORS 260.275, ORS 260.281 and ORS 260.285 and these administrative rules OAR 165-012-0500 through 165-012-0530.

(2) Any filings required under ORS 260.275, ORS 260.281 and ORS 260.285 or administrative rules OAR 165-012-0500 through 165-012-0530 may be filed as follows:

(a) by delivery, including but not limited to the use of the U.S. Postal Service, to the Elections Division at 255 Capitol Street NE, Suite 501; Salem, OR 97310;

(b) by email to [orestar-support.sos@oregon.gov](mailto:orestar-support.sos@oregon.gov); or

(c) by facsimile to 503-373-7414.

(3) If any of the required information on the form received by the Secretary of State is incomplete, the Elections Division will notify the filer by phone, e-mail, or in writing of the deficiencies on the form(s). The form(s) will not be processed or considered filed until all the required information is provided.

(4) If a previously filed filing is retracted or otherwise withdrawn after the filing due date, it will be considered late from the filing due date to the date the filing is retracted or withdrawn.

(5) If a previously filed filing is corrected or otherwise amended after the filing due date, it will be considered late from the filing due date to the date the filing is corrected or otherwise amended.

STATUTORY/OTHER AUTHORITY: ORS 246.150, 260.281

STATUTES/OTHER IMPLEMENTED: ORS 260.275, 260.281, 260.285

SUSPEND: 165-012-0520

RULE TITLE: Application of ORS 260.281

RULE SUMMARY: HB 4024, Section 16 repealed ORS 260.275, 260.281, and 260.285. Thus, the rules implementing these statutes are no longer needed. This temporary filing suspends the rule effective immediately. The Division is also filing permanent rules to repeal the rule permanently.

RULE TEXT:

(1) A donation is received for purposes of ORS 260.281 and administrative rules OAR 165-012-0500 through 165-012-0530 as follows:

(a) If made by financial instrument (e.g. cash, check, or other written instrument), when the instrument is received by an agent or authorized representative of a covered organization, or by the financial institution if made directly to a financial institution.

(b) If made by electronic transfer of funds or credit card, when the donation is credited to an account in the name of a covered organization.

(c) If made by stock the date when an agent or authorized representative of the covered organization receives notice either of the authorization or of the completion of the transfer, whichever notification occurs first.

(d) If made in the form of an item of value, the date an agent or authorized representative of a covered organization has knowledge of the in-kind contribution and the item of value has been purchased or provided.

(2) Where a donor has already donated more than \$10,000 in the aggregate to a covered organization as of the date ORS 260.275, ORS 260.281 and ORS 260.285 were effective, and the covered organization is required to file an initial donor list, the covered organization shall file its initial donor list using form SEL 240 no later than July 1, 2020.

(3) When a covered organization discloses a donation from a donor which was previously reported, the covered organization shall report the updated total amount of the aggregate donation(s), not the amount of the change in donations.

(4) The signature provided by the authorized representative on an initial or updated donor identification list must be an original signature, although it may be submitted via a scanned document.

(5) Signatures on forms used to comply with ORS 260.281, ORS 260.285 or administrative rules OAR 165-012-0500 through 165-012-0530 that are filed using paper forms will be converted to an electronic document and will become the official record.

(6) For purposes of delivering the initial donor identification lists and updated donor identification lists to persons who request those lists, it shall be sufficient to direct the requestor to a website where such documents are available if such a website exists.

STATUTORY/OTHER AUTHORITY: ORS 246.150, 260.281

STATUTES/OTHER IMPLEMENTED: ORS 260.275, 260.281, 260.285

SUSPEND: 165-012-0530

RULE TITLE: Civil Penalties

RULE SUMMARY: HB 4024, Section 16 repealed ORS 260.275, 260.281, and 260.285. Thus, the rules implementing these statutes are no longer needed. This temporary filing suspends the rule effective immediately. The Division is also filing permanent rules to repeal the rule permanently.

RULE TEXT:

- (1) For purposes of assessing civil penalties in connection with violations of ORS 260.281, and these administrative rules OAR 165-012-0500 through 165-012-0530, the Authorized Representative identified on the SEL 240 form shall be financially responsible for those civil penalties.
- (2) Civil penalties assessed in connection with violations of ORS 260.281 and these administrative rules OAR 165-012-0500 through 165-012-0530, may be assessed during the Election Cycle and are not required to be held in abeyance until the end of an Election Cycle.
- (3) Subject to the cap set out in ORS 260.285, civil penalties assessed in connection with violations of ORS 260.281 and these administrative rules OAR 165-012-0500 through 165-012-0530, for late filings of initial donor identification list(s) shall be 2.5% of the total cost for political communications made by the covered organization for the applicable race, measure, or committee for each business day that the filing was late. The penalty will be calculated based on the total cost of political communications made by the covered organization for the applicable race, measure, or committee from the beginning of the election cycle up to the date the initial donor identification list was due.
- (4) Subject to the cap set out in ORS 260.285, civil penalties assessed in connection with violations of ORS 260.281 and these administrative rules (OAR 165-012-0500 through 165-012-0530) for late filings of updated donor identification list(s) shall be .5% per day of the aggregate donations not properly identified by the covered organization for the applicable race, measure, or committee for each business day that the filing was late.
- (5) For an initial or updated donor identification list that is amended after the due date to change the name of a donor resulting in a different donor, subject to the cap set out in ORS 260.285, the civil penalties assessed shall be .5% per day of the total donations received from donors whose names were not correctly identified for each business day that the filing was late.
- (6) For an initial or updated donor identification list that is amended after the due date to change the amount of a previously reported donation, subject to the cap set out in ORS 260.285, the civil penalties assessed shall be .5% per day of the net change or .5% of the updated amount, whichever is less, for each business day that the filing was late.
- (7) For an initial or updated donor identification list that is amended after the due date to add a new donor, subject to the cap set out in ORS 260.285, the civil penalties assessed shall be .5% per day of the total donations received from all donors whose donations were not correctly identified on the initial or updated donor identification list for each business day that the filing was late.
- (8) For an initial or updated donor identification list that is amended after the due date to remove a previously identified donor, subject to the cap set out in ORS 260.285, the civil penalties assessed shall be \$100.00 for each donor that was removed.
- (9) The administrative rules set out in OAR Chapter 165, Division 1 shall apply to hearings requested and held related to civil penalties assessed for violations of ORS 260.281 and these administrative rules OAR 165-012-0050 through 165-012-0530. In the event a potential conflict, ORS 260.285 and these administrative rules OAR 165-012-0050 through 165-012-0530 will control.
- (10) For purposes of requesting a hearing in conjunction with penalty notices issued for violations of ORS 260.281 and these administrative rules OAR 165-012-0050 through 165-012-0530, unless otherwise reflected in the record or in USPS information, notices shall be deemed received by the person against whom the penalties were assessed three days after mailing if mailed to a last known address within the state, or seven days after mailing if mailed to a last known address outside the state.
- (11) If a hearing is requested, it will be held as provided by ORS 260.285, which is not later than 45 calendar days after

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

(12) A request for hearing must be made by using the Hearing Request Form provided by the Secretary of State's Office, Elections Division. The Hearing Request Form, and testimony (if applicable) may be mailed, faxed, or attached to an email sent to orestar-support.sos@oregon.gov.

(13) Proposed Civil Penalties assessed pursuant to ORS 260.285 may only be mitigated as follows:

(a) The lateness or insufficiency of an initial or updated donor list is the direct result of clearly-established fraud, embezzlement, or other criminal activity against the Covered Organization, or Authorized Representative of a Covered Organization, 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.

(A) This mitigating circumstance does not apply to any person who was the perpetrator of the wrongdoing described above.

(B) If the criminal or civil action in a court of law results in a monetary judgment (including restitution) in favor of the Covered Organization or the Authorized Representative of a Covered Organization the Elections Division civil penalty must be paid if the judgment is collected.

(b) The lateness or insufficiency of an initial or updated donor list is the direct result of fire, flood, utility failure, or other calamitous event, resulting in physical destruction of, or inaccessibility to necessary 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.

(c) The lateness or insufficiency of an initial or updated donor list 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.

(d) The lateness or insufficiency of an initial or updated donor list is the direct result of an error by the elections filing officer. If an initial or updated donor list is late or insufficient as the direct result of an error by the elections filing officer, the violation is waived and no penalty is assessed.

(e) The lateness of an initial or updated donor list is the direct result of a valid personal emergency of the Authorized Representative or other individual authorized to make election-related filings on behalf of the Covered Organization. In this case, independent written verification must be provided. A valid personal emergency is an emergency, such as a serious personal illness or death in the immediate family of Authorized Representative or other individual authorized to make election-related filings on behalf of the Covered Organization which caused the transaction to be late. Personal emergency does not include a common cold or flu, or a long-term illness where other arrangements could have been made.

(f) Only the circumstances listed above, if proven, may be considered in reducing a penalty.

(14) Payment of civil penalties may be made as follows:

(a) by credit card over the phone; or

(b) by check payable to the Oregon Secretary of State, and Mailed to the Elections Division.

(c) Payment may be made at any time after the proposed penalty notice is issued, but must be received not later than 30 calendar days after the service date of the final order.

(d) If necessary, the person may contact the Elections Division to discuss payment plan options.

(15) If the calculated penalty for an initial or updated donor list is less than \$50, a proposed penalty will not be issued.

STATUTORY/OTHER AUTHORITY: ORS 183.341, 246.150, 260.281, 260.285

STATUTES/OTHER IMPLEMENTED: ORS 260.275, 260.281, 260.285