

How do I file a Public Meetings Law Grievance?

The OGEC is authorized to investigate and adjudicate Open Public Meetings Law (OPML) violations. The new administrative rule, Oregon Administrative Rules (OAR) 199-050-0070, clarifies requirements of Oregon Revised Statutes (ORS) 192.705 for filing a written grievance with a public body alleging violations of OPML. As of October 1, 2024, there are new requirements for public bodies.

There are three prerequisites for when an individual who thinks an OPML violation has occurred:

- a. Submit written grievance to the public body;
- b. Within 30 days of the alleged violation; and
- c. The public body has 21 days to respond to the complainant. The public body must respond in writing to both the complainant and a copy to the OGEC (by email or via mail), at the same time. The response may contain the following options: (1) deny facts/deny violation; (2) admit facts/deny violation; or (3) admit facts / admit violation.

Mail complaint to:
Office of Lincoln County Legal Counsel
225 W. Olive Street, Rm 110
Newport, OR 97365

Or email a written complaint to:
County Counsel
kyuille@co.lincoln.or.us

Or deliver a written complaint in person during regular County business hours: M-F 8 am to 5 pm to:

Office of Lincoln County Legal Counsel
225 W. Olive Street, Rm 110
Newport, OR 97365

After the 21-day period is over, the complainant may submit a complaint to the OGEC, which must include a copy of the grievance submitted to the public body and must provide the public body's response. If the complainant fails to provide the above, the OGEC will dismiss the complaint.

The public body must provide information on the grievance notice process, specifically, who to submit grievances to and how to submit grievances.

The OGEC will review received complaints for satisfaction of prerequisites; conduct a preliminary review; and possibly initiate an investigation.

The OGEC may issue sanctions for OPML violations to include: (1) civil penalty (up to \$1,000 fine); (2) letters of education; and/or (3) training requirement.

Any person affected by a decision of a governing body of a public body may file a lawsuit to require compliance with, or prevent violations of, the OPML by members of the governing body. Lawsuits may be filed by “any person who might be affected by a decision that might be made.”

A plaintiff may also file suit to determine whether the OPML applies to meetings or decisions of the governing body. Under ORS 192.680(5), any suit brought under the OPML must be commenced within 60 days following the date the decision becomes public record.

A successful plaintiff may be awarded reasonable attorney fees at trial or on appeal. Whether to award these or not is in the court’s discretion. If a court finds that a violation of the OPML was the result of willful misconduct by a member or members of the governing body, each is liable for the amount of attorney fees paid to the successful applicant.

If a governing body violates the OPML in a decision, the decision is not necessarily void. In the case of an unintentional or non-willful violation of the OPML, the court has discretion to void a decision, but such an action is not mandatory. The law permits a governing body that violates the OPML to reinstate the decision while in compliance with the law. If a governing body reinstates an earlier decision while in compliance with the law, the decision will not be voided and the decision is effective from the date of its initial adoption.

Importantly, reinstatement of an earlier decision while in compliance with the law will not prevent a court from voiding the earlier decision “if the court finds that the violation was the result of intentional disregard of the law or willful misconduct by a quorum of the members of the governing body.” In that case, the court will void the decision “unless other equitable relief is available.”

Apart from the enforcement provisions described above, the OGEC may review complaints that a public official has violated the executive session provisions of the OPML as provided in ORS 244.260. The commission has the authority to interview witnesses, review minutes and other records, and obtain other information pertaining to executive sessions of the governing body for purposes of determining whether a violation occurred. If the commission finds a violation of the executive session provisions, the commission may impose a civil penalty not to exceed \$1,000. If, however, the violation occurred as a result of the governing body acting on the advice of its legal counsel, the civil penalty may not be imposed.

Further, the OGEC was granted additional authority in the 2024 Legislative Session in House Bill 4117. This legislation expanded the scope of authority of the OGEC to give advice on public meetings laws, issue advisory opinions on the application of the public

meetings law to actual or hypothetical circumstances, authorized the executive director of the commission to issue staff advisory opinions or written or oral staff advice on the application of the public meetings law to actual or hypothetical circumstances, and permits other commission staff to issue written or oral staff advice on the public meetings law.