

## Executive Sessions - News Media

*This is recommended for deletion by legal staff following the release of Oregon Attorney General Opinion No. 8291 (2016).*

### Currently Recognized News Media Organizations

The following entities are recognized as news media organizations eligible to attend executive sessions because they have an established history of meeting the requirements of this regulation:

1. The Sun
2. The News Register

No other entity shall be permitted to attend an executive session unless it is recognized through the process described below.

### 3. Recognition of Other News Media Organizations

- a. The following entities are recognized as news media organizations eligible to attend executive sessions:<sup>1</sup>
  - (1) A general or associate member newspaper of the Oregon Newspaper Publishers Association, a broadcast member of the Oregon Association of Broadcasters or a member of the Associated Press; or
  - (2) A newspaper that the district uses for publication of public notices and that meets the requirements of ORS 193.020; or
  - (3) An entity recognized by the district as being a news source that:
    - (a) Is organized and operated to regularly and continuously publish, broadcast, transmit via the Internet or otherwise disseminate news to the public, and that regularly reports on activities of the district or matters of the nature under consideration by the district; and
    - (b) Is determined by the district to be a business entity that is institutionalized<sup>2</sup> and that is committed to, and is structured to support, the terms of ORS 192.660(4).<sup>3</sup> In making this determination, the district may consider and weigh any factors that it deems to be relevant, including, without limitation, the existence of any of the following factors:

<sup>1</sup>School/district sponsored media groups comprised of members of the student body under the direction of a student media advisor are not within the definition of "media organization" as contemplated by this regulation.

<sup>2</sup>For the purposes of this regulation, "institutionalized" means long-established or well-established.

<sup>3</sup>ORS 192.660(4). Representatives of the news media shall be allowed to attend executive sessions other than those held under Subsection (2)(d) of this section relating to labor negotiations or executive session held pursuant to ORS 332.061(2) but the governing body may require that specified information be undisclosed.

- (i) The entity has multiple personnel with defined roles within its organizational structure;
  - (ii) The names of news-reporting personnel, and responsible entity management personnel, together with addresses and contact telephone numbers, are readily available;
  - (iii) The entity has an available process for correcting errors, including violations of executive session statutes, by a person with authority to take corrective measures.
- b. It shall be the entity's burden to persuade the district by substantial evidence that it should be recognized as a news media organization meeting the criteria in Section 1.a. of this regulation. Such evidence must be submitted five working days in advance of the next regularly scheduled Board meeting prior to the first executive session that the entity desires to attend. The Board shall make a determination within 10 days at the next regularly scheduled Board meeting of receiving the evidence submitted by the entity. The Board may elect to forgo this procedure in cases where the Board, in its sole discretion, determines that it can immediately recognize that an entity qualifies under this procedure, or in cases where the Board, in its sole discretion, determines that other good cause exists for making an expedited determination. A determination that the entity is not recognized shall be based upon written findings addressing the criteria in Section 1.a.

#### 4. Attendance at Executive Sessions

Representatives of news media organizations recognized under the criteria established by this regulation shall be allowed to attend executive sessions, except as described in ORS 192.660(4) and 192.660(5), pursuant to the following process:

- a. The representative must provide substantial evidence persuading the district, that he/she is a news reporter for the recognized news media organization. In making its determination whether to recognize the person as a representative of the news media organization, the district shall require:
  - (1) A press badge or identification issued by the recognized news media organization, plus proof of identity (such as a driver's license); or
  - (2) A recently published news article in the recognized news media organization publication or broadcast, with the person's byline, or a masthead showing the person's name as a member of the news gathering staff of the news media organization, plus proof of identity; or
  - (3) A letter on letterhead from an editor of the recognized news media organization in which the editor states that the reporter is covering the meeting for the news media organization, plus proof of identity.
- b. Representatives of the news media are not permitted to attend executive sessions involving deliberations with persons designated to carry on labor negotiations. ORS 192.660(4). If the executive session is being held for the purpose of conferring with counsel about current litigation or litigation likely to be filed, the Board shall exclude any member of the news media from attending if the member is a party to the litigation to be discussed or is an employee,

agent or contractor of a news media organization that is a party to the litigation. ORS 192.660(5);

- c. The Board may require that a request to attend an executive session be made in writing on a form provided by the district. The form shall require disclosure of the person's name, and the entity for which he or she is a news reporter, and shall require submission of evidence described in Subsections 2.a.(1), (2) or (3) of this regulation. The form shall also include a signature line whereby the person certifies that they are gathering news for a recognized news media organization, that the information given is true and that they agree to comply with ORS 192.660(4);
- d. The Board may consider any relevant evidence provided or gathered in making its decision as to whether a person shall be recognized as a representative of a recognized news media organization.

5. Recording Devices Prohibited

Cameras, tape recorders and other recording devices shall not be used in executive sessions, except for the official executive session tapes made by district staff.

6. Exclusion Based on a Direct Personal Interest

A representative of a news media organization that has a direct personal interest in the subject of the executive session that would frustrate the purpose of the executive session may be barred from attending.