

DIVISION 1
PROCEDURAL RULES

577-001-0005

Notice of Rulemaking

Prior to the adoption, amendment, or repeal of any rule, the University shall give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date. Publication in the Bulletin may omit the information required by OAR 577-001-0010(1)(c)-(j).

(2) By mailing a copy of the notice to persons on the University's mailing list established pursuant to ORS 183.335(6) at least 28 days prior to the effective date. At a minimum, the mailing list shall include:

- (a) Associated Press;
- (b) The Oregonian;
- (c) Vanguard;
- (d) Associated Students of Portland State University;
- (e) Portland State University Faculty Association; and
- (f) Labor organizations representing University faculty or staff.

Stat. Auth.: ORS 183, ORS 351

Stats. Implemented: ORS 183.335; ORS 183.341

Hist.: PSU 3, f. & cert. ef. 1-14-76; PSU 12, f. & cert. ef. 2-22-77

577-001-0010

Contents of Notice and Requests for Public Hearing

(1) The notice referred to in OAR 577-001-0005 shall contain the following:

- (a) A caption of not more than 15 words that reasonably identifies the subject matter of the University's intended action.
- (b) The subject matter and purpose of the proposed action in sufficient detail to inform a person that his or her interest may be affected.
- (c) If practicable, the text of the rule to be adopted, amended or repealed. If the text is not included in the notice, the notice shall state the manner in which a copy of the text may be obtained.
- (d) A citation of the statute or other legal authority for the rule.
- (e) A citation of the statute or other law the rule is intended to implement.
- (f) A statement of the need for the rule and how the rule is intended to meet the need.
- (g) A list of documents, studies or reports prepared for or relied upon in formulating the rule, and a statement of the location at which those documents are available for public inspection.
- (h) A statement of fiscal impact identifying state agencies, units of local government and the public which may be economically affected by the adoption, amendment or repeal of the rule and an estimate of that economic impact on state agencies, units of local government and the public. In considering the economic effect of the proposed action on the public, the University shall utilize available information to project any significant economic effect of that action on businesses which shall include a cost of compliance effect on small businesses affected.
- (i) If an advisory committee is not appointed pursuant to ORS 183.025(2), an explanation as to why no advisory committee was used to assist the University in drafting the rule.
- (j) If the University plans to hold a public hearing:
 - (A) The time and place of the hearing and the manner in which interested persons may present their views.
 - (B) A designation of the person or governing body of the University to conduct the hearing.
- (k) If the University does not plan to hold a public hearing:
 - (A) The time and manner in which data or views may be submitted in writing.
 - (B) A statement that any interested person desiring to express or submit data or views at a public hearing may request the opportunity to do so.

(C) The time and manner in which requests for a public hearing must be submitted.

(D) A statement that a public hearing will be held if the University receives timely request from ten or more persons or from an association having not less than ten members.

(2) If timely request for a public hearing is received from ten or more persons or from an association having not less than ten members, the University shall give notice of the hearing and conduct it in conformity with these rules.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 183.335; ORS 183.341

Hist.: PSU 12, f. & cert. ef. 2-22-77

577-001-0020

Postponement of Proposed Action

(1) The University shall postpone its proposed action upon timely request of an interested person, to allow the requesting person an opportunity to submit data or views concerning the proposed action.

(2) Postponement of the proposed action shall be not less than 21 days or more than 90 days. In determining the length of postponement, the University shall consider the time necessary to give reasonable notice of the postponement and the complexity of the subject and issues of the proposed action.

(3) This rule does not apply to adoption of temporary rules pursuant to ORS 183.335(5) and OAR 577-001-0050.

Stat. Auth.: ORS 183, ORS 351

Stats. Implemented: ORS 183.335; ORS 183.341

Hist.: PSU 12, f. & cert. ef. 2-22-77

577-001-0025

Conduct of Hearing

(1) If a public hearing is held, it shall be conducted by a person designated by the President.

(2) At the commencement of the hearing, any person wishing to be heard shall inform the presiding officer in writing of his or her name, address, affiliation, and position in favor of or opposition to the proposed action. The presiding officer shall provide a form for that purpose. Additional persons may be heard at the discretion of the presiding officer.

(3) Subject to the discretion of the presiding officer, the order of the presentation shall be:

(a) Statements of proponents;

(b) Statements of opponents; and

(c) Statements of any other witness present and wishing to be heard.

(4) The presiding officer may question or examine any witness making a statement at the hearing. At the discretion of the presiding officer, other persons may be permitted to examine witnesses.

(5) There shall be no rebuttal or additional statement given by any witness unless requested by the presiding officer. However, when such additional statement is given, the presiding officer shall allow an equal opportunity for reply.

(6) The hearing may be continued with recesses as determined by the presiding officer until all listed witnesses present and desiring to make statements have had an opportunity to do so.

(7) The presiding officer shall, if practicable, receive all physical and documentary evidence presented by witnesses. Exhibits shall be marked and shall identify the witnesses offering them. The exhibits shall be preserved by the University for one year or, in the discretion of the University, returned to the witnesses offering them.

(8) The presiding officer may set reasonable time limits for oral presentation and may exclude or limit cumulative, repetitious, or immaterial matter.

(9) A recording or verbatim record shall be made of the hearing or, in the alternative, a record in the form of minutes.

Stat. Auth.: ORS 183, ORS 351

Stats. Implemented: ORS 183.335; ORS 183.341

Hist.: PSU 12, f. & cert. ef. 2-22-77

577-001-0035

Action of University

The University may adopt, amend, or repeal rules covered by the notice of proposed action at any time after the conclusion of the hearing or, if no hearing is held, on or after the date specified in the notice of proposed action.

Stat. Auth.: ORS 183, ORS 351

Stats. Implemented: ORS 183.335; ORS 183.341

Hist.: PSU 12, f. & cert. ef. 2-22-77

577-001-0040

Filing With Secretary of State

(1) The University shall file in the office of the Secretary of State a certified copy of each rule as adopted or amended and each notice of repeal.

(2) A rule shall be effective upon filing unless a later effective date is required by statute or specified in the rule.

Stat. Auth.: ORS 183, ORS 351

Stats. Implemented: ORS 183.341; ORS 183.355

Hist.: PSU 12, f. & cert. ef. 2-22-77; PSU 1-1978, f. & cert. ef. 1-6-78

577-001-0041

Submission of Rule to Legislative Counsel

Within 10 days of filing an adopted or amended rule or notice of repeal with the Secretary of State, the University shall send a copy of the rule or notice of repeal to Legislative Counsel.

Stat. Auth.: ORS 183, ORS 351

Stats. Implemented: ORS 183.341; ORS 183.715

Hist.: PSU 1-1978, f. & cert. ef. 1-6-78

577-001-0045

Petitions Requesting Adoption, Amendment, or Repeal of Rules

(1) An interested person may petition the University to adopt, amend, or repeal a rule. The petition shall state the name and address of the petitioner and any other person known to the petitioner to be interested in the rule. The petition shall be legible, signed by or on behalf of the petitioner, and shall contain a detailed statement of:

(a) The rule petitioner requests the University to adopt, amend, or repeal. When a new rule is proposed, the petition shall set forth the proposed language in full. When an amendment of an existing rule is proposed, the rule shall be set forth in the petition in full with matter proposed to be deleted and proposed additions shown by a method that clearly indicates proposed deletions and additions;

(b) Facts or arguments in sufficient detail to show the reasons for and effects of adoption, amendment, or repeal of the rule; and

(c) All propositions of law to be asserted by petitioner.

(2) If the petitioner requests the amendment or repeal of an existing rule, the petition must also contain comments on:

(a) Options for achieving the existing rule's substantive goals while reducing the negative economic impact on businesses;

(b) The continued need for the existing rule;

(c) The complexity of the existing rule;

(d) The extent to which the existing rule overlaps, duplicates, or conflicts with other state or federal rules and with local government regulations; and

(e) The degree to which technology, economic conditions, or other factors have changed in the subject area affected by the existing rule, since the University adopted the rule.

(3) If a petition requests the amendment or repeal of a rule, before denying a petition, the University must invite public comment upon the rule, including whether options exist for achieving the rule's substantive goals in a way that reduces the negative economic impact on businesses.

(4) The University:

(a) May provide a copy of the petition, together with a copy of the applicable rules of practice, to all persons named in the petition;

(b) May schedule oral presentations; and

(c) Shall, in writing, within 90 days after receipt of the petition, either deny the petition or initiate rulemaking proceedings.

Stat. Auth.: ORS 183, ORS 351

Stats. Implemented: ORS 183.341; ORS 183.390

Hist.: PSU 12, f. & cert. ef. 2-22-77

577-001-0050

Temporary Rules

(1) The University may proceed without prior notice or hearing, or upon any abbreviated notice and hearing that is practicable, to adopt or amend a rule without the notice otherwise required. In such a case, the University shall:

(a) File with the Secretary of State the rule and the University's findings that failure to act promptly will result in serious prejudice to the public interest or to the interest of the parties concerned and the reasons for that finding, a citation of the statutory or other legal

authority relied upon and bearing upon the adoption of the rule, a statement of the need for the rule and a statement of how the rule is intended to meet the need, and a list of the principal documents, reports or studies, if any, prepared by or relied upon by the University in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection;

(b) Take appropriate measures to make the temporary rule known to the persons who may be affected;

(c) Furnish copies of the temporary rule to the mailing list required by OAR 577-001-0005(1)(b); and

(d) File a copy of the adopted or amended rule with Legislative Counsel within 10 days after filing with the Secretary of State.

(2) Unless a later date is specified in the temporary rule, it shall be effective upon filing with the Secretary of State.

(3) Temporary rules may be effective for no longer than 180 days. They may not be renewed. The University may, however, adopt identical permanent rules with notice pursuant to Division 1 of these Rules, and may give such notice contemporaneously with adoption of the temporary rule.

(4) A rule temporarily suspended shall regain effectiveness upon expiration of the temporary period of suspension unless the rule is repealed with notice pursuant to Division 1 of these Rules prior to the expiration of the temporary rule.

Stat. Auth.: ORS 183, ORS 351

Stats. Implemented: ORS 183.335; ORS 183.341

Hist.: PSU 12, f. & cert. ef. 2-22-77; PSU 1-1978, f. & cert. ef. 1-6-78