BEFORE THE OREGON GOVERNMENT ETHICS COMMISSION

Complaint Alleging Violations of Oregon Public Meetings Law (ORS 192.610 to 192.690)

Complainant:	National Parents Organization – Oregon Chapter ("Oregon NPO"), by Jess Miller, MD, Silverton, Oregon
Respondent:	Members of the Governing Body of the Oregon Commission on Judicial Fitness and Disability ("the Commission" or "CJFD")
Filed under:	ORS 244.260(1)(a)(B) and ORS 192.685, as amended by HB 2805 (2023)
Meeting at issue:	May 15, 2026 confidential case-review meeting, and the Commission's continuing practice of closed case-review meetings
Date filed:	June 15, 2026

I. Introduction and Summary

This complaint presents a narrow question: may a state governing body conduct every vote it takes — on every matter, in every case, year after year — in complete secrecy, with no public notice of its meetings, no public agenda, no disclosed attendance or recusals, no recorded roll-call votes, and no final action ever taken in open session?

The Oregon Commission on Judicial Fitness and Disability answers yes. By its own written admissions, the full Commission votes on every step of the judicial complaint-review process at confidential case-review meetings held approximately six times per year. No notice of these meetings is published. The agendas are withheld as confidential. Recusals are recorded only in confidential minutes. Votes are never disclosed. Final dispositions — including dismissals and informal disposition letters that no court will ever review — are decided and announced to no one. In 2024, the Commission opened approximately ten minutes of one meeting to the public. In 2025, it opened one brief meeting concerning budget matters. It has held no public meeting in 2026.

Oregon NPO does not seek disclosure of complainant identities, complaint narratives, witness statements, or any other material protected by ORS 1.440. The sole issue is whether the governance acts of the Commission itself — notice, agendas, attendance, recusals, motions, votes, and final action — may be conducted in secret. Under Oregon Public Meetings Law and this Commission's own published guidance, they may not.

II. Statutory Prerequisites Are Satisfied

This complaint satisfies the mandatory prerequisites of ORS 244.260(2), as amended by HB 2805 (2023), and OAR 199-050-0070.

Written grievance. On May 20, 2026 — within 30 calendar days of the May 15, 2026 meeting — Oregon NPO submitted a formal written grievance to the Commission under ORS 192.705 and OAR 199-050-0070, identifying the date of the violation, the facts and circumstances, and the

complainant's contact information (Exhibit A). Oregon NPO submitted a supplemental addendum on June 2, 2026 (Exhibit B).

Denial received. On June 10, 2026, the Commission responded in writing. The Commission "denies the facts and circumstances alleged in the grievance and denies that the facts and circumstances alleged amount to a violation of ORS 192.610 to 192.705," asserting that its case-review meetings are "judicial proceedings" exempt from Public Meetings Law under ORS 192.690 (Exhibit C). A denial is the precise trigger that ripens a complaint to this Commission under ORS 244.260(2)(a).

Documentation of the grievance and the public body's response is attached, as required by ORS 244.260(3). The Commission was required to transmit a copy of the grievance and its response to OGEC under ORS 192.705(3); this filing supplies both in any event.

III. Facts Established by the Commission's Own Records and Correspondence

The material facts are not in dispute. They are established by the Commission's own public-records responses and written correspondence (Exhibits D through F):

- The full Commission votes on every step of the complaint-review process — whether to open, investigate, dismiss, issue an informal disposition letter, or proceed to formal charges — and those votes occur during confidential case-review meetings held approximately six times per year.
- The Commission held fifteen confidential case-review meetings in 2024 and 2025 (identified by date in its April 17, 2026 records response) for which no public notice was given and no public agenda exists; the Commission states that "the agendas of the case review meetings are a list of the cases set to be reviewed at the meeting, and as such, are confidential."
- Recusal and conflict-of-interest information for commissioners "is recorded in the confidential meeting minutes" and is not publicly available in any form.
- In 2024, approximately ten minutes of one Commission meeting was open to the public. In 2025, one brief July meeting concerning budget matters was open. The Commission confirmed on April 17, 2026 that it had held no public meeting in 2026.
- On May 8, 2026, Oregon NPO sent the Commission a written demand that its May 15, 2026 meeting comply with Public Meetings Law. On May 14, 2026, Executive Director Rachel Mortimer responded in writing that the May 15 meeting was "solely reviewing and deliberating on judicial complaints" and was therefore "a judicial proceeding exempt from public meeting law." The meeting proceeded on May 15, 2026 with no public notice, no public agenda, no public access, no disclosed recusals, no recorded public votes, and no open final action.
- The Commission has conducted no public misconduct hearing since the matter of Judge Vance Day in 2015–2016, while receiving more than 2,000 complaints over approximately the past decade. Every disposition of every one of those complaints — with one public stipulated censure — was decided by votes the public has never seen.

IV. The Violation: Secret Votes, Secret Recusals, Secret Final Action

Oregon Public Meetings Law exists "to ensure that the decisions of governing bodies are arrived at openly." ORS 192.620. Its requirements are not abstract. A governing body must give public notice of its meetings (ORS 192.640), including a list of the principal subjects anticipated to be considered. It must keep minutes or a recording reflecting the motions made and "the results of all votes and, except for public bodies consisting of more than 25 members unless requested by a member of that body, the vote of each member by name." ORS 192.650(1)(c). **The Oregon Government Ethics Commission's own published Public Meetings checklist and guidance instruct every Oregon governing body that votes must be recorded by member name and that secret-ballot decision-making is prohibited.**

The CJFD's admitted practice violates each of these requirements as to every case-review meeting it holds. There is no notice. There is no agenda available to the public in any form — not even one identifying matters by case number. There are no public minutes. There are no votes recorded by name in any record the public, the press, the Legislature, or OGEC can inspect. Recusals exist only in confidential minutes, which means no one outside the Commission can ever verify whether a commissioner with a conflict of interest participated in a matter — a structural defect that also renders the conflict-of-interest provisions of ORS Chapter 244, which this Commission enforces, unauditable as applied to the CJFD's members. And final action — the dismissal or informal disposition of roughly 99 percent of all complaints against Oregon judges — is taken in secret, permanently.

A vote that no member of the public can ever see, recorded in minutes no member of the public can ever read, is a secret ballot in every sense that matters. Even if every commissioner acts in complete good faith, a system of invisible votes and invisible recusals makes independent oversight impossible. That is precisely the condition the Public Meetings Law was enacted to prevent.

The secrecy is not merely an open-government defect; it disables the one check that makes self-interested voting detectable. The Commission is a nine-member body that includes three sitting judges, three attorneys, and three public members, each of whom votes on every complaint. Three of the people who vote on whether to dismiss a complaint against an Oregon judge are themselves Oregon judges, subject to the same complaint process they administer. Because attendance is undisclosed for case-review meetings, recusals are recorded only in confidential minutes, and no vote is ever recorded by name in any record the public can inspect, it is structurally impossible for anyone outside the room to verify whether a commissioner voted on a complaint concerning themselves, a colleague before whom they appear, a court in which they have a personal interest, or counsel who practices before them. Oregon NPO does not allege that any such thing has occurred in any particular case. The point is the opposite: under the Commission's practice, no one — not the public, not the press, not the Legislature, and not this Commission — could ever know if it did.

This is precisely the harm Oregon's conflict-of-interest law is designed to prevent and that this Commission is charged with enforcing. ORS Chapter 244 requires public officials to publicly announce the nature of a conflict and, for an actual conflict, to refrain from participating — obligations that presuppose a public record in which participation and abstention can be observed

and audited. A body that records its recusals only in minutes no one may ever read has placed its own members' compliance with ORS Chapter 244 beyond the reach of the very agency that enforces it. The Public Meetings Law's requirement of recorded, named votes is not a formality; it is the mechanism by which a self-dealing vote becomes visible. Removing that mechanism does not eliminate the risk of self-interested decision-making — it eliminates only the public's ability to see it.

V. The Commission's "Judicial Proceedings" Defense Fails on Its Own Terms

The Commission's sole defense is that its case-review meetings are "judicial proceedings" categorically exempt from Public Meetings Law under ORS 192.690(1). OGEC need not resolve the outer boundaries of that exemption to decide this complaint, because the Commission's position fails even if the exemption is assumed to reach confidential deliberation on complaint content.

First, exemptions from the Public Meetings Law are construed narrowly, and ambiguity is resolved in favor of open meetings. Whatever "judicial proceedings" covers, it is a narrow exemption for adjudicative deliberation — not a grant of categorical invisibility for a governing body's entire existence. Nothing in ORS 192.690(1) or ORS 1.440 exempts the fact that a meeting is occurring, the public notice of it, an agenda identifying matters by case number, the attendance of members, the disclosure of recusals, the recording of votes by name, or the taking of final action in open session. ORS 1.440 protects "documents filed with" the Commission and "the investigation conducted by" the Commission. A roll-call vote tally and a case number are neither. The confidentiality the statute provides runs to complainants, witnesses, and judges prior to a public hearing — not to the commissioners' own governance acts.

Second, the Legislature has already designed the tool for exactly this situation: executive session. ORS 192.660 permits a governing body to deliberate confidentially — including, under ORS 192.660(2)(f), to consider records exempt from public disclosure — while still requiring public notice of the meeting, a statement on the record of the statutory authority for closing the session, attendance by representatives of the news media, a return to open session, and final action taken publicly with recorded votes. The executive-session mechanism is the proof that the Commission's position is untenable: the Legislature already designed the tool for bodies that must deliberate confidentially, and that tool still requires public notice, a stated statutory basis, media attendance, return to open session, and recorded roll-call votes. A body claiming it needs more secrecy than executive session provides is not protecting confidentiality — it is avoiding accountability for its votes.

Third, identification of matters by case number discloses nothing the law protects. The Commission's own legislative testimony confirms that it operates a case-management system and assigns case numbers to opened complaints. An agenda listing case numbers reveals no complainant identity, no allegation, no witness statement, and no investigative material. Where a narrower means exists to protect genuinely confidential content, blanket secrecy over the meeting itself cannot be justified as necessary.

VI. Every Comparable Oregon Disciplinary Body Operates Under the Public Meetings Law

The Commission's claimed exemption would make it unique among Oregon's professional oversight bodies — every one of which handles statutorily confidential complaints, investigations, and disciplinary matters within the ordinary Public Meetings Law framework, using executive sessions:

The Oregon Medical Board publicly notices all of its meetings; convenes executive sessions under ORS 192.660(2)(f), (h), and (L) to discuss confidential physician investigations (which remain confidential under ORS 676.165 and 676.175); admits news media and public officials to those executive sessions as the statute requires; and states on every meeting notice that "the Board does not take final actions in Executive Session" and "will convene in Public Session prior to taking any final action." Its public agendas list the executive session, its statutory basis, and a public-session item for committee recommendations to the Board.

The Teacher Standards and Practices Commission publicly posts agendas that openly identify, as executive-session items under ORS 192.660(2)(f): "Receiving and discussing preliminary investigation reports on complaints and charges against licensed educators," "Taking action to dismiss the complaint or to charge the educator," and "Deliberating the hearing record in disciplinary proceedings" — including investigations of educator sexual conduct under ORS 339.390, among the most sensitive complaint material any Oregon body handles. Its agendas further state that adoption of an order resulting from a hearing "must be done in public session."

The Oregon Board of Physical Therapy follows the same model: noticed public meetings, executive session under ORS 192.660(2)(f), (h), and (L) when necessary, and reconvening in public session before acting.

Physicians' licenses and patients' complaints are no less sensitive than judges'. Teachers' careers and child-safety investigations are no less sensitive than judges'. Yet the CJFD is the only oversight body in Oregon claiming that its votes themselves are categorically invisible — and the only one whose subjects are judges. The functions are identical: receive complaints against licensed professionals, investigate confidentially, vote on dismissal or charges, and proceed to public discipline where warranted. The subject's position does not transform a disciplinary screening function into something exempt from the open-government obligations every comparable body meets daily.

VII. The Commission's Own Precedent and Its Own Admission Refute Categorical Secrecy: Vance Day Public Process

In the matter of Judge Vance Day, the Commission itself operated the staged model Oregon law contemplates: confidential complaint and investigation, followed by a publicly noticed hearing. On September 8, 2015, the Commission issued a press release announcing the date, time, and place of the public hearing, describing the allegations, explaining the adversarial process, stating that the hearing was open to the public, and identifying the public outcomes — a recommendation of

sanction or of dismissal to the Oregon Supreme Court (Exhibit G). No party, no Commission counsel, and no court suggested that this public process violated ORS 1.440.

Critically, the Commission's June 10, 2026 response to Oregon NPO's grievance concedes the model. Quoting the grievance's description of the Vance Day framework — confidential investigation followed by public hearing, public record, public findings, and public Supreme Court proceedings — the Commission states: "This is, in fact, how the Commission continues to conduct itself," and affirms that it "has not and will not hold hearings in private" (Exhibit C, p. 3). That admission narrows this dispute considerably. The Commission does not contend that public process is unlawful; it contends only that the public stage is one it alone decides whether any case ever reaches — by secret vote.

The numbers show what that means in practice. The statutes have not materially changed since Vance Day. Yet in the decade since, across more than 2,000 complaints, the Commission has held no public misconduct hearing. Whether that record reflects sound dispositions or not, no one can say — because every vote producing it was secret. A "public stage" that the public can never see anyone reach, arrived at through votes the public can never inspect, converts the staged confidentiality of ORS 1.420 and 1.440 into the perpetual secrecy those statutes nowhere authorize. The Commission's own response illustrates the problem: it asks the public to accept its assurance that nothing has changed, while withholding every record — agenda, attendance, recusal, vote, and disposition — by which that assurance could be verified.

The Commission's own current leadership underscores that the Vance Day public model has not been lost to it — it has been set aside. Darlene D. Pasieczny, who appears as counsel of record for the Commission on the caption of the Vance Day briefing before the Oregon Supreme Court (Exhibit I), presently serves as Vice Chair of this Commission (Commission Members, courts.oregon.gov/programs/cjfd/members, last accessed [DATE ACCESSED]). The Commission is therefore not in a position to suggest that the public process it followed in Vance Day belongs to some earlier and now-unavailable era. Counsel who conducted that public proceeding now helps lead the body whose collective position is that no comparable public process has been required in any of the more than 2,000 complaints handled in the intervening decade, and that the meetings producing those dispositions must remain categorically invisible — not only to the public, but to the press, the Legislature, and this Commission. The Commission knows precisely how to conduct its work in public, because it has done so; it has simply chosen to conduct all of it, year after year, in private.

VIII. The Commission's Position Excludes Not Only the Public, but the Press and the Legislature

The structural consequence of the Commission's theory deserves emphasis. Under ORS 192.660(4), representatives of the news media must be permitted to attend executive sessions, subject only to narrow statutory exceptions — a requirement this Commission has enforced and the Attorney General has repeatedly affirmed. By declaring that its case-review meetings are not "meetings" at all, the CJFD does not merely close its deliberations to the general public; it eliminates the one mechanism by which the institutional press could observe even the lawful confidential portion of its

work, and it leaves legislators — who fund the Commission and who were told its work advances judicial accountability — with no means of observing any Commission action whatsoever. No notice, no agenda, no minutes, no votes: not for the public, not for the press, not for the Legislature, and not for OGEC.

This is not a body using a confidentiality statute to protect complainants and witnesses. It is a body using a confidentiality statute to place itself beyond observation by every institution of oversight Oregon law provides.

IX. The Commission Has Applied Its Secrecy Theory to This Very Grievance

The reach of the Commission's position is best illustrated by what it has done with this matter. Oregon NPO's grievance did not concern any judge, any allegation of judicial misconduct, the Code of Judicial Conduct, or anything subject to Oregon Supreme Court review. It concerned a single, purely administrative question: whether the Commission, as a governing body, complies with the Public Meetings Law in conducting its own affairs. The Commission's June 10, 2026 denial of that grievance is itself a final action of a public body on a question of its own governance.

Yet the public has no way of knowing how that action was taken. The Commission has not disclosed whether it convened to deliberate on the grievance, who participated, whether any member recused, or whether a vote was taken authorizing the denial and its "judicial proceedings" rationale. If the Commission deliberated and voted on its response at one of the confidential meetings it says are exempt, then under its own theory the public may never learn how the body decided to defend its secrecy — because deciding how to answer a public-meetings grievance would itself be shielded as a "judicial proceeding." That cannot be right. Responding to an open-government grievance about administrative practice is not the adjudication of a judge's conduct by any definition the Commission has offered. It involves no respondent judge, no investigation under ORS 1.440, and no path to the Supreme Court. It is governance, plain and simple.

The consequence is a closed loop: a public body claims its meetings are exempt from public scrutiny, and then deploys that same claimed exemption to conceal how it decided to assert the exemption in the first place. An exemption that can be used to hide the deliberations over its own scope is not a narrow carve-out for adjudicating judicial conduct — it is a general license to govern in secret. The Public Meetings Law cannot be read to permit a governing body to deliberate confidentially over whether it must deliberate publicly. OGEC should treat the Commission's handling of this grievance not as a side issue but as a direct demonstration of how far the Commission's theory reaches, and why it cannot stand.

X. Requested Action

Oregon NPO respectfully requests that the Oregon Government Ethics Commission:

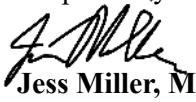
1. Accept this complaint as satisfying the prerequisites of ORS 244.260(2) and open a review and investigation of the Commission's May 15, 2026 meeting and its continuing practice of

closed case-review meetings, including review of the Commission's meeting minutes, vote records, and recusal records as authorized by ORS 244.260(4);

2. Find that the members of the Commission's governing body violated ORS 192.610 to 192.690 by conducting meetings, votes, recusals, and final actions without public notice, public agendas, public minutes, recorded roll-call votes, or open final action;
3. Direct, or obtain through negotiated settlement under ORS 244.260(12), the Commission's adoption of the following compliance framework for every meeting at which official action is taken: (a) public notice of the meeting; (b) a public agenda identifying matters by case number only; (c) identification on the record of the statutory authority for any executive session; (d) attendance by representatives of the news media at executive sessions as required by ORS 192.660(4); (e) written or recorded minutes reflecting attendance, motions, actions, and disclosed recusals; (f) roll-call votes recorded by commissioner name and case number; (g) return to open session before any final action; and (h) no secret votes and no secret final action; and
4. Impose civil penalties under ORS 244.350 as the Commission deems appropriate.

This framework asks for nothing that the Oregon Medical Board, the Teacher Standards and Practices Commission, and every other Oregon disciplinary body does not already do as a matter of routine. It discloses no complainant, no witness, no allegation, and no investigative material. It asks only that the body charged with holding Oregon's judges accountable conduct its own votes in the manner Oregon law requires of every other governing body in the state.

Respectfully submitted,



Jess Miller, MD
Oregon Chapter, National Parents Organization
Silverton, Oregon
Facebook.com/NPOoregon

Index of Exhibits

Exhibit A. Oregon NPO Formal Public Meetings Law Grievance to the Commission, May 20, 2026

Exhibit B. Oregon NPO Supplemental Addendum (Vance Day), June 2, 2026

Exhibit C. Commission Response Denying Grievance, June 10, 2026

Exhibit D. Commission Public Records Responses, April 17, 2026 (meeting dates, confidential agendas, attendance, recusals recorded only in confidential minutes; no public meetings in 2026)

Exhibit E. Commission Email Response, May 14, 2026 (asserting May 15 meeting is a "judicial proceeding exempt from public meeting law")

Exhibit F. Oregon Government Ethics Commission - Public Meetings Law Checklist

Exhibit G. Commission Press Release, September 8, 2015 (public hearing notice, In re Vance Day)

Exhibit H. The Honorable Vance D. Day's Opening Brief, Oregon Supreme Court No. S063844 (January 2017), caption page identifying Darlene D. Pasieczny as counsel for the Commission on Judicial Fitness and Disability

Exhibit I. Attorney General Opinion on Commission Hearings with respect to Oregon Public Meetings Law

cc: Chief Justice of the Oregon Supreme Court; Members of the Oregon Legislative Assembly