

Oregon State Bar
Special Meeting of the Board of Governors

January 7, 2022

11:30 a.m.

Zoom

Open Session Agenda

President Kamron Graham called the open session meeting to order at 11:33 a.m. on January 7, 2022. The meeting adjourned at 11:59 a.m. Members present by videoconference or teleconference from the Board of Governors were Chris Cauble, Gabe Chase, Jenny Cooke, Kate Denning, Lee Ann Donaldson, Stephanie Engelsman, Kamron Graham, Bik-Na Han, Matthew McKean, Rob Milesnick, Apolinar Montero-Sanchez, Curtis Peterson, Joe Piucci, David Rosen, and David Wade. Not present were Candace Clarke, Ryan Hunt, Myah Kehoe and Tasha Winkler. Staff present in person were Cassandra Dyke, Ankur Doshi, Danielle Edwards, Keren Farkas, Susan Grabe, Helen Hirschbiel, Karen Lee, and Mike Williams. Present from the PLF was Megan Livermore.

1. Call to Order

2. Swearing-in of New BOG Members [Ms. Graham] Action

Kamron Graham swore in Stephanie Engelsman, and Apolinar Montero-Sanchez.

3. Adopt BOG Areas of Focus for 2022 Action Exhibit

Helen Hirschbiel went through the Areas of Focus for the BOG for 2022.

Motion: To adopt the BOG Areas of Focus for 2022. David Rosen moved and Joe Piucci seconded. Those in favor were Chris Cauble, Gabe Chase, Jenny Cooke, Kate Denning, Lee Ann Donaldson, Stephanie Engelsman, Bik-Na Han, Matthew McKean, Rob Milesnick, Apolinar Montero-Sanchez, Curtis Peterson, Joe Piucci, and David Rosen. No abstentions no oppositions. The motion passed.

4. Approve Portal Project Memorandum of Understanding Action Exhibit

Helen Hirschbiel presented the Memorandum of Understanding. There is still feedback coming in from the stake holders so it may change a little bit. The Task Force is at a point in the project because we have funding from Legal Services Grant for production. Seeking funding for this project for staffing and other essentials. Keren Farkas gave an overview of the portal project.

Motion: To approve the Portal Project Memorandum of Understanding. Moved and seconded. Those in favor were Chris Cauble, Gabe Chase, Kate Denning, Lee Ann Donaldson, Stephanie Engelsman, Bik-Na Han, Matthew McKean, Rob Milesnick, Apolinar Montero-Sanchez, Curtis Peterson, Joe Piucci, and David Rosen. Jenny Cooke opposed. No abstentions. The motion passed.

OSB Board of Governors

STATUTORY CHARGE

The Oregon State Bar (OSB) is a public corporation and an instrumentality of the Judicial Department of the State of Oregon.¹ The OSB Board of Governors (BOG) governs the state bar and must “at all times direct its power to serve the public interest by:

- (a) Regulating the legal profession and improving the quality of legal services;
- (b) Supporting the judiciary and improving the administration of justice; and
- (c) Advancing a fair, inclusive and accessible justice system.”²

As a unified bar, the OSB may use mandatory member fees only for activities that are germane to the purposes for which the bar was established.³

MISSION

The mission of the OSB is to serve justice and the public interest by promoting respect for the rule of law, by improving the quality of legal services, and by increasing access to justice.

FUNCTIONS AND GOALS

The BOG has adopted the following goals for its three statutory functions:

FUNCTION #1 – REGULATE THE LEGAL PROFESSION AND IMPROVE THE QUALITY OF LEGAL SERVICES

GOAL: Protect the public by ensuring competence and integrity and promoting professionalism in the legal profession.

FUNCTION #2 – SUPPORT THE JUDICIARY AND IMPROVE THE ADMINISTRATION OF JUSTICE

GOAL: Protect and advance the quality, integrity, and impartiality of the judicial system.

FUNCTION #3 – ADVANCE A FAIR, INCLUSIVE, AND ACCESSIBLE JUSTICE SYSTEM

GOAL: Foster trust in, respect for, understanding of, and access to the justice system.

FIDUCIARY ROLE

In order to advance the mission and achieve its goals, the BOG must ensure that the OSB is effectively governed and managed, and that it has adequate resources to maintain the desired level of programs and activities.

¹ ORS 9.010.

² ORS 9.080.

³ In *Keller v. State Bar of California*, 499 US 1,111 SCt 2228 (1990), the US Supreme Court held that an integrated bar's use of compulsory dues to finance political and ideological activities violates the 1st Amendment rights of dissenting members when such expenditures are not "necessarily or reasonably incurred" for the purpose of regulating the legal profession or improving the quality of legal services.

BOG AREAS OF FOCUS FOR 2022

1. Identify and implement board leadership development needs.
2. Conduct All Program Review; consider whether to revise the Program Review Policy.
3. Provide oversight and support for OSB Diversity Action Plan implementation.
4. Plan for possible unified bar litigation outcomes.
5. Address impact of remote work on OSB elections and programs.
6. Continue support for development and implementation of the Paraprofessional Licensing Program and the Portal Project.
7. Support lawyer well-being.
8. Provide OSB budget oversight.
9. Support implementation of compensation study recommendations.
10. Implement legislative priorities adopted for 2022; identify and adopt legislative priorities for 2023.

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: January 7, 2022
From: Helen Hierschbiel, Oregon State Bar CEO
Re: Memorandum of Understanding re Portal Project

Action Recommended

Authorize CEO to negotiate and sign a Memorandum of Understanding (MOU) for development and maintenance of a web-based portal that conforms substantially to the attached.

Background

In April 2021, the BOG approved the CEO to negotiate an MOU with stakeholders for the purpose of creating, launching, and maintaining an interactive website that serves as a single entry portal through which low-income Oregonians can seek and find assistance with civil legal matters. At that time, stakeholders had determined the project mission, guiding principles and goals, and the general oversight structure through an advisory committee. The Oregon State Bar (OSB) and Oregon Law Foundation (OLF) have taken the laboring oar in moving the project forward, and will continue to be the primary leads in the project, with the Oregon Judicial Department (OJD), Legal Aid Services of Oregon (LASO) and the Oregon Law Center (OLC) providing critical support through promised content, funding, and in-kind services.

Attached is a draft MOU between these five primary stakeholders (OSB, OLF, OJD, LASO, and OLC) which sets forth our intentions for the project mission, guiding principles and goals, the roles and responsibilities for each of the stakeholders, and the governing framework for our collaboration to achieve the project mission and goals. As stated in the MOU, other agreements between the stakeholders will be needed (e.g. licensing agreements), the details of which we are in the process of negotiating. Representatives from OJD (the Chief Justice and State Court Administrator) and OLF have agreed to the terms in the attached. The OLF Board will be asked to approve the MOU before the end of this month. LASO and OLC are in the process of reviewing this final draft; we hope to have their thoughts before the end of this week.

We are at a critical phase in the project. With the generous help of Oregon Consumer Justice, we have engaged a consultant to develop a people-centered wireframe for the website. LASO secured a Legal Services Corporation technology development grant of \$250,000 to assist with development of the website. And we are seeking additional funding from the legislature to help get the website up and running with robust content that is centered on the needs of the community. In order to get the funding, we must finalize the MOU and have it signed by the stakeholders.

Attachment: Portal Project MOU

Portal Project

Memorandum of Understanding

This Memorandum of Understanding (the “**MOU**”), by and between the Oregon State Bar (“**OSB**”), a public corporation and instrumentality of the Oregon Judicial Department, the Oregon Law Foundation (“**OLF**”), an Oregon nonprofit corporation, and the following Stakeholders: Oregon Judicial Department (“**OJD**”), Legal Aid Services of Oregon (“**LASO**”), and the Oregon Law Center (“**OLC**”) (each a “Stakeholder” and collectively “Stakeholders.”). All signatories referred to together as the “Parties.”

Background

- A. The Parties have a long history of cooperation based on their common interest in improving the quality of legal services, improving the administration of justice, and advancing a fair inclusive and accessible justice system in Oregon.
- B. The OSB and OLF previously entered into to an Administration Agreement, in which the OSB agrees to provide the OLF with administrative support, including the provision of facilities, equipment, administrative assistance, and the employment of staff, in return for OLF’s reimbursement of OSB’s costs.
- C. The parties wish to enter into a joint project to create and launch an interactive website that serves as a portal focused on the needs of low-income Oregonians seeking assistance with noncriminal legal matters (the “**Portal Project**” or the “**Portal**”), as outlined in this MOU, and pursuant to final documents consistent with the terms of this MOU, to be executed by one or more of the Parties hereto and other third parties and outlined herein (the “**Definitive Documents**”);
- D. The Definitive Documents will set forth the agreements and understanding of the Parties with respect to the two key phases of the Portal Project, the development of the portal (the “**Development Stage**”) and the ongoing maintenance and administration of the Portal Project (the “**Maintenance Stage**”).
- E. The Parties wish to record their understandings, agreements, and responsibilities in connection with the Portal Project.

NOW, THEREFORE, the Parties agree to the following:

1. Project Mission, Guiding Principles and Goals.

- a. **Mission.** The Mission of the Portal Project is to create and provide on-going support for and access to an interactive self-help legal portal website focused on the needs of low-income Oregonians with noncriminal legal needs.
- b. **Guiding Principles.** The Guiding principles of the Portal Project are as follows:
 - i. The self-help legal portal website will provide self-represented parties with access to regularly updated legal information, self-help resources, and legal providers, using content from OSB, OLF, and primary stakeholders.
 - ii. The Minnesota triage portal and self-help website will serve as a model. It meets the working goals outlined below and includes self-help resources developed both in-house and by partner agencies and contains links to other resources.
 - iii. Professional experts will be relied upon to develop, implement and maintain the system, including literacy/plain language, substantive law, web accessibility and usability, and technical experts.
 - iv. The project must include mechanisms to ensure:
 1. centralized oversight for quality control and ongoing maintenance for the system.
 2. continuous identification and measurement of the system through data-driven key success indicators and use findings to enhance the Portal Project.
 3. ongoing, dedicated resources to maintain the Portal through staffing that is expert in substantive law, literacy/plain language, website development and interactive site management.
 - v. Parties should act mutually as advocates for self-help research, the triage system, and access to justice when interacting with Stakeholders and decision-makers.
- c. **Goals of Portal Project.**
 - i. Increase assistance for individuals with noncriminal legal issues through a centralized website focused on the needs of low-income individuals.
 - ii. Improve access to justice through the integration of self-help legal resources.
 - iii. Increase options to include retrieving content or guided direction through a description of the problem or legal categories of the portal system.

2. Creation and Administration of Advisory Committee.

- a. Advisory Committee. The Parties will create a Portal Project Advisory Committee (“Advisory Committee” or “Committee”). Initial membership will consist of a representative from OSB, OLF and the following Stakeholders:
- Oregon Judicial Department
 - Legal Aid Services of Oregon
 - Oregon Law Center

Initial membership will also include a representative from Oregon Consumer Justice. Subject to the terms of this Section 2 and the Charter (defined in subsection d below), the Advisory Committee may agree to expand membership to include representatives from community organizations and public members.

Each member of the Advisory Committee is a voting member.

- b. Continuing Right to Participation. Each Stakeholder’s continuing right to Advisory Committee participation shall be conditioned upon each Stakeholder entering into a separate agreement with the OSB to provide Portal content, funding, or in-kind services (“Stakeholder Agreement”).
- c. No Additional Agreements Without Consent. Other than entering into separate Stakeholder Agreements with Stakeholders listed in this Section 2, OSB shall not enter into additional agreements conferring the right to participate or vote in the Advisory Committee without the approval of all current Stakeholders that have an active Stakeholder Agreement with the OSB to provide Portal content, funding, or in-kind services.
- d. Charter. The Advisory Committee shall adopt the Advisory Committee Charter (“**Charter**”) annexed hereto as Exhibit A. The Advisory Committee may amend or revise the Charter upon approval of all Advisory Committee members. The Charter, all amendments and all revisions shall be consistent with the Advisory Committee Decision Making Framework, attached hereto as Exhibit B (the “**Decision Framework**”).
- e. Development Stage. The Advisory Committee shall meet on a regular basis to provide input into the development of the Portal Project website. The Advisory Committee will assist in the establishment of guidelines for the content of the Portal Project and development of best practices to avoid content duplication among Advisory Committee participants. OSB and OLF staff will consult with the

Advisory Committee with respect to the material decisions by OSB, in collaboration with OLF, in the Development Stage.

- f. Maintenance Stage. The Advisory Committee shall meet periodically to receive updates and provide input in connection with the Portal Project, including administrative, operational, and financial matters. The Advisory Committee may incorporate community feedback and address stakeholder interests consistent with the Portal's mission on an ongoing basis.

3. Roles and Responsibilities of Stakeholder Groups

- a. Each Stakeholder will, in good faith, negotiate and work with OSB to enter into a Stakeholder Agreement to provide Portal content, funding or in-kind services for the Portal Project.
- b. Each Stakeholder will participate in the Advisory Committee to provide input and feedback on the development and ongoing administration of the Portal Project to help ensure the Portal meets the Stakeholder's expectations and is consistent with its mission in providing services to Oregon's communities.
- c. Each Stakeholder shall also follow any additional obligations outlined in the Stakeholder Agreement.

4. Roles and Responsibilities of Oregon State Bar

- a. OSB will, in good faith, negotiate and work with each Stakeholder to enter into a Stakeholder Agreement to provide Portal content, funding or in-kind services for the Portal Project.
- b. Engagement of Stakeholders. OSB will engage OLF and Stakeholders to ensure that the development and maintenance of the Portal meets Stakeholder expectations and is consistent with each Stakeholder's mission in providing services to Oregon's communities.
- c. Development Stage
 - i. OSB, in collaboration with OLF (and with input from the Advisory Committee) will be responsible for project management of the Portal Project.
 - ii. OSB will coordinate with LASO to enter into a development contract with website developer.
 - iii. OSB will enter into Stakeholder Agreements with each Stakeholder as set forth in Section 7.

- iv. OSB will license or develop content management software for the Portal Project.
- d. Development Stage Staff Time Commitment
 - i. OSB will contribute funds and staff time for work on the Portal Project, subject to OSB's strategic planning, budget and the availability of funds.
 - ii. OSB will attempt to provide, at the Development Stage, a full-time Project Manager, and the use of an in-house Developer to assist with integration of the Portal Project with existing OSB programs (subject to OSB's budget and the availability of funds).
- e. Maintenance Stage
 - i. OSB will undertake reasonable efforts to secure additional funding or direct financial resources on an ongoing basis in support of the continued operation of the Portal (subject to OSB's budget and the availability of funds).
 - ii. OSB will assume primary responsibility for the operation and maintenance of the Portal and associated technology; and
 - iii. OSB, in collaboration with OLF, will be responsible for all decisions regarding content, Stakeholder engagement, and leadership and management of the Advisory Committee.
- f. Maintenance Stage Staff Time Commitment
 - i. OSB's commitment at the Maintenance Stage will require at least 2 FTEs to be responsible for content maintenance and administration (subject to the successful securing of funding for any additional staff positions that would be required).

5. Roles and Responsibilities of Oregon Law Foundation

- a. Engagement of Stakeholders. OLF, in consultation with OSB, will engage Stakeholders to ensure that the development and ongoing administration of the Portal meets Stakeholder expectations and is consistent with each Stakeholder's mission in providing services to Oregon's communities.
- b. Development Stage
 - i. OLF, in consultation with OSB (and with input and feedback from the Advisory Committee) will support project management of the Portal Project.

- c. Development Stage Staff Time Commitment
 - i. OLF will contribute staff time as needed to support project management of the Portal Project.
- d. Maintenance Stage
 - i. OLF will direct financial resources on an ongoing basis in support of the continued operation of the Portal (subject to OLF's budget and the availability of funds) or coordinate with OSB to identify and undertake reasonable efforts to secure additional funding.
 - ii. OLF, in consultation with OSB, will be responsible for all decisions regarding content, stakeholder engagement, and leadership and management of the Advisory Committee.
- e. Maintenance Stage Staff Time Commitment
 - i. OLF anticipates contributing toward at least 2 FTEs during the Maintenance Stage, to be responsible for content maintenance and administration (subject to existing funding or the successful securing of funding for any additional staff positions that would be required). OLF's commitment to provide FTE support is subject in all respects to OLF's budget, which may be modified from time to time by the OLF board of directors.

6. Funding

a. Development Stage Funding. Subject to all applicable laws, regulations, and policies OSB, OLF and Stakeholders will cooperate in seeking legislative support, grants, or other Stakeholder funding sources to cover all development costs, including costs related to the engagement of third-party developers and other service providers.

7. Definitive Documents

- a. Stakeholder Agreements. Each Stakeholder shall enter into a Stakeholder Agreement. Each Stakeholder Agreement shall be between the Stakeholder and the OSB, and shall provide, at a minimum, the following requirements:

- i. The contribution of the Stakeholder, either in the form of content, funding, or in-kind contributions, or a combination thereof.
- ii. The right of the Stakeholder to participate in the Advisory Committee.
- iii. For Stakeholders providing content, the Stakeholder's Agreement will provide a license for the content to the OSB.

b. Development Stage Agreements

- i. Development and other Service Provider Agreements. OSB will engage third parties in the development of the Portal through development and other service provider agreements unless funding requires the agreements to be entered into by another Stakeholder.

c. Maintenance Stage Agreements

- i. Annual Commitment of Resources. OSB and OLF shall provide the Advisory Committee six (6) months notice prior to termination of funding, termination of continued operation, or termination of maintenance of the Portal.
- ii. Annual Funding Agreements (third parties). OSB, in consultation with OLF, will negotiate with Stakeholders and other potential sources of funding to secure financial commitments in connection with the continued operation and maintenance of the Portal.
- iii. Additional License Agreements. OSB may enter into additional License Agreements with third party content providers from time to time. Such additional Licensing Agreements shall not confer a right to a member on the Advisory Committee unless agreed to by all Stakeholders.

8. **Transferees/Successors-in-interest.** OSB will ensure that any subsequent transferee of the Portal, any successors-in-interest to OSB, OLF, or Advisory Committee participant, and any strategic partners to the Portal Project will have organizational goals and strategy consistent with the Portal Project mission and goals as articulated in Section 1. In the event of transfer of the Portal Project, the OSB will ensure an orderly transfer of licenses to Portal Project content to the transferees or successors-in-interest.

Exhibit A

Portal Advisory Committee Charter

The Portal Advisory Committee (“Advisory Committee”) is a collaborative effort to support the development and operation of a noncriminal legal information portal in Oregon. Initial member organizations will include the Oregon State Bar, Legal Aid Services of Oregon, Oregon Law Center, the Oregon Judicial Department, the Oregon Law Foundation, Oregon Consumer Justice and additional stakeholders as appropriate.

Purpose

The purpose of the Advisory Committee is to provide input on strategic and technical developments to the Portal, and maintenance of the Portal’s interface.

Membership

The Advisory Committee will consist of no more than 13 members.

Stakeholders gain the right to appoint committee members through Stakeholder Agreements with the Oregon State Bar. Each stakeholder that has a Stakeholder Agreement with the Oregon State Bar will appoint one member of the Advisory Committee. The Oregon State Bar, Oregon Law Foundation and Oregon Consumer Justice will each appoint one member of the Advisory Committee.

Up to the maximum of 13 members, during the development stage, the Advisory Committee may increase the number of Committee members, by affirmative vote of all current committee members. During the maintenance stage, the Advisory Committee may increase the number of committee members, by affirmative vote of more than 50% of committee members. The Advisory Committee may expand membership to include system partners, community organizations and a public member that represent the interests of the community and consumers.

Chairperson

The Advisory Committee will select a Chairperson by affirmative vote of more than 50% of committee members. The Chairperson will conduct meetings and work with OSB staff to set agendas and plan meetings.

Quorum

Representation from two-thirds of committee members constitutes a quorum of the Advisory Committee. The Committee requires quorum of committee members present to take any action. Committee member attendance via telephonic conferencing or videoconference shall constitute being present for quorum and for voting.

Role and Decision Framework

The Advisory Committee’s role is defined by the attached Advisory Committee Decision Making Framework (“Decision Framework”) :

1. The Advisory Committee will make decisions relating to the Mission of the Portal as described in the Decision Framework.
2. OSB Portal staff will seek and the Advisory Committee will provide input on strategic decisions regarding the Portal as described in the Decision Framework.
3. OSB Portal staff will inform the Advisory Committee on key aspects of the implementation and operation of the Portal.

Additionally, the Advisory Committee will address stakeholder interests consistent with the mission of the Portal.

Vote

Unless otherwise expressly noted within this Charter, the approval of more than 50% of committee members present at a meeting where a quorum is present represents an act of the committee.

Meetings

The Advisory Committee will meet no less frequently than two times per year. During the development stage, Advisory Committee will meet more regularly.

Staffing

Until the Oregon State Bar has dedicated Portal staff are in place, the Oregon Law Foundation will work with OSB to provide support to the Advisory Committee. Once dedicated Portal staff are in place, the Oregon State Bar will provide support to the Advisory Committee. OSB Portal Staff may attend Advisory Committee meetings as non-voting members.

Amendment and Revision

This Charter may be amended or revised. All changes must be consistent with the Decision Framework, and all changes must be approved by affirmative vote of all current committee members at the time of revision.

EXHIBIT B

Advisory Committee Decision Making Framework

1. **Decisions Related to Portal Mission** (Unanimous Advisory Committee Approval Required)
 - a. Change to Mission or Guiding Principles
 - b. Development and Revisions to Advisory Committee Charter
 - c. Significant changes to Portal decision-making process
 - d. Change in total number of Advisory Committee members
 - e. Addition or removal of Stakeholders with representation on Advisory Committee

2. **Strategic Decisions** (Advisory Committee Input Sought Prior to Decision by Staff)
 - a. Annual budget review – feedback on significant changes
 - b. Non-emergency expenditures over \$100,000 which are not contemplated by the budget
 - c. Review progress reports from OLF/OSB on Portal development and maintenance
 - d. Evaluation of effectiveness of Portal
 - e. Strategic Content focus
 - f. Determination of staffing levels necessary to develop, administer, and maintain the Portal
 - g. Community engagement priorities
 - h. Portal design strategy

3. **Decisions Related to Implementation and Operations** (Decisions made by Portal Staff)
 - a. Operational day-to-day decisions
 - b. Content editing
 - c. Personnel management (hiring/firing/compensation)
 - d. Technical support and maintenance of Portal
 - e. Look and feel of webpages
 - f. Terms of Licensing and Consulting Agreements, except as related to the addition or removal of stakeholders with representation on Advisory Committee