

Oregon State Bar

House of Delegates Engagement Committee

Report of the House of Delegates Engagement Committee

September 5, 2024

The Oregon State Bar extends their thanks and acknowledgment to the following House of Delegates members who volunteered for the House of Delegates Engagement Committee to review the history of the House of Delegates and provide advice and assistance on increasing engagement within the House of Delegates.

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Executive Summary

The House of Delegates (HOD) of the Oregon State Bar (OSB) is a unique institution in the governance of Oregon's legal community. Established to foster greater member engagement and provide a more representative body, the HOD has a checkered history in accomplishing those goals. From its inception in 1996, following decades of discussion and debate, the HOD has played a crucial role in advocating for improvements in the legal system, the regulation of lawyers, and addressing disparities in access to justice. However, the HOD has faced persistent issues related to member participation, effective communication, and structural representation.

In 2023, the HOD passed a resolution requesting that the OSB Board of Governors (BOG) form a committee to review and recommend options to increase the engagement of HOD delegates within the HOD. The resolution specifically tasked the BOG to having the committee explore strategies to enhance participation and involvement within the HOD and foster better communication and coordination between the BOG and the HOD.

In April 2024, the BOG appointed eight HOD delegates that volunteered to the HOD Engagement Committee (Engagement Committee) to explore these issues. The Engagement Committee met four times over the course of 2024. The Engagement Committee reviewed the history of the HOD, its structure in relation to the governance of the OSB, and the past issues related to engagement. It conducted a survey of past and current HOD delegates to determine areas of engagement that could be improved by the OSB and the BOG.

The Engagement Committee found several specific areas throughout the year that could be adjusted by the Bar to improve both delegate engagement and communication. The committee recommended providing a more comprehensive orientation shortly after HOD elections that includes resources on drafting resolutions and understanding HOD functions. This orientation should also cover current topics, future BOG meetings, and include regional breakouts for discussion and networking.

The Engagement Committee also suggested implementing multiple follow-up communications about HOD resolutions within 90 and 180 days after the HOD meeting, ensuring regular updates on the status of resolutions. To improve communication with the BOG, the Engagement Committee recommended targeted communication to HOD delegates, including BOG meeting dates, agendas, and actions related to HOD resolutions. Encouraging HOD delegates to attend regional bar tours and events would also foster better engagement.

To enhance networking, the Engagement Committee encouraged using current outstanding events as networking events for HOD members, including OSB tours by the president as well as the annual Celebrate Oregon Lawyers event. Additional social events and CLE activities around the HOD meeting would provide additional opportunities for delegates to interact. While the Engagement Committee recommended postponing an in-depth governance study, it suggested considering future structural changes based on the success of these initial recommendations.

History

Early History of the House of Delegates

The concept of a representative body such as the HOD emerged shortly after the bar transitioned from a voluntary association to an integrated bar in 1935.¹ Initial discussions about establishing a delegate governance model began in 1938.² The primary argument for a delegate system was the need for a more representative governance structure, rather than leaving decisions to those who had time and inclination to attend the annual meetings. Despite early discussions and repeated efforts to establish such a model in 1938, 1944, 1956, and 1963, no significant changes occurred.³ Instead, the OSB held an annual meeting in a town hall format each year since 1935 to provide member representation on matters within the OSB.

In 1972, the BOG's Committee on Function and Organization of the Bar studied the concept of a representative body for five years before drafting a legislative proposal.⁴ This proposal was presented at the Annual Meeting in 1977 but was rejected in favor of improving the existing "town hall" system.⁵ The continued preference for the town hall system was echoed in surveys conducted in 1979 and 1983, where a majority of responding members favored the town hall structure coupled with mail referendums on some questions.⁶

In 1990, the Function and Organization Committee at the request of the BOG developed a model for a House of Delegates.⁷ This BOG submitted the proposal to a membership vote in August 1992 and received two-thirds majority support from the 36% of members who voted.⁸

¹ See Karen L. Garst, *History of the House of Delegates*, Memorandum, attached as Exhibit 1.

² *Id.* at 2.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 3.

⁸ *Id.*

At the request of the BOG, in 1990, the proposal was introduced to the Oregon Legislature as Senate Bill 256 in 1993.⁹ It faced opposition, which argued that the proposed structure did not fairly reflect the interests of lawyers statewide.¹⁰ The bill died in the House. A revised bill was introduced in 1995, which included local bar presidents as *ex officio* members. This bill successfully passed and became effective on January 1, 1996, thus leading to the present-day HOD.¹¹

Initial Meetings and Structure

The first elections for the HOD were held in April 1996. During the initial months, delegates met with BOG representatives and OSB staff to draft rules of procedure and discuss potential structural and procedural issues, such as regional delegations and the creation of an executive committee.¹² The inaugural session of the HOD occurred in Medford on September 28, 1996 at the OSB’s annual meeting. The meeting of the HOD replaced the town hall at the annual meeting, and the OSB switched to holding an “annual meeting” every other year.¹³ The first “annual meeting” after the formation of the HOD was not well attended and the BOG looked at other potential models for holding a convention type meeting for gathering and networking with members separate from the HOD. Eventually, the BOG ended the annual meeting, and opted to instead have three separate events annually, a 50-year member luncheon, a dinner for bar awards, and the HOD meeting.¹⁴ The 50-year member luncheon and dinner for bar awards was eventually combined into the “Celebrate Oregon Lawyers” event.

Current Structure

ORS 9.136 *et seq.* establishes the structure and powers of the HOD. The statute addresses the concerns raised during the discussions in 1996 at the legislature, and allows for voices from different regions and specializations within the legal profession to be heard.

Composition

ORS 9.136 establishes that HOD delegates are selected from active members of the OSB and nonlawyers. HOD delegates can be broadly classified into elected delegates, *ex officio* delegates, and public delegates.

⁹ *Id.* at 3.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

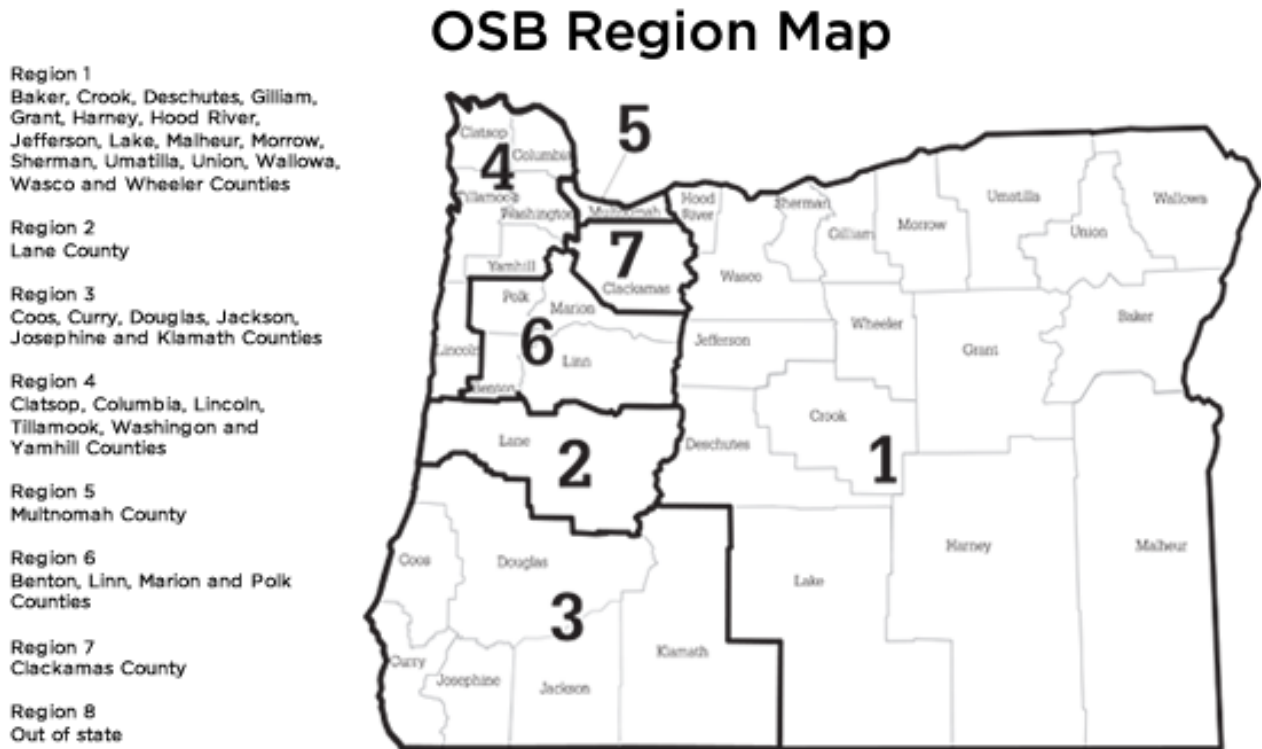
¹³ Karen L. Garst, *Annual Meeting History*, Memorandum, attached as Exhibit 2, at 1.

¹⁴ *Id.* at 3.

Elected Delegates

The largest portion of HOD delegates are directly elected by OSB members under ORS 9.136. The Bar Act, under ORS 9.025(2)(a), divides Oregon into regions with equivalent populations of members, along with a separate region for those members who have offices out of state.¹⁵ Each region elects BOG members¹⁶ and HOD delegates. The number of delegates elected within each region is determined by ORS 9.136(6). Each region has one delegate for every 100 bar members. Each region must have at least five delegates to ensure that smaller regions are adequately represented.

Currently, the OSB divides Oregon into seven in-state regions, with an eighth region (Region 8) consisting of out of state members.



Each April, the OSB runs an election via electronic ballot for elected delegate members pursuant to ORS 9.152. Each elected delegate serves for a term of three (3) years. In 2024, there were a total of 157 elected delegates. The table below listed the number of delegates for each region as of January 1, 2024.

¹⁵ ORS 9.025(2)(b).

¹⁶ ORS 9.025(1)(a)(1).

Region Members and Delegates (Jan. 1, 2024)		
Region	Members in Region	Elected Delegates
Region 1	890	9
Region 2	824	8
Region 3	616	6
Region 4	1,789	18
Region 5	5,480	55
Region 6	1,565	16
Region 7	1,069	11
Region 8 (Out of State)	3,359	34

In 2024, twenty-eight (28) elected delegate seats did not have candidates run in the election. The BOG appointed interested members to these seats per ORS 9.136(7).

Ex Officio Members

ORS 9.136 also establishes several *ex officio* delegates of the HOD based on their position within the OSB, or other local bar organizations. *Ex officio* delegates may vote in the HOD and generally have the same powers as elected delegates.¹⁷ As of January 1, 2024, there are seventy-five (75) *ex officio* delegates. *Ex officio* delegates provide diversity to the HOD through regional representation as well as specialty representation. Members of the BOG are also considered *ex officio* delegates under ORS 9.136(2).

To provide additional regional diversity, ORS 9.136(4) selects a county’s elected local bar president as an *ex officio* delegate. Currently, twenty-one (21) elected local county bar presidents act as *ex officio* delegates in the HOD. Eight local county bars are currently vacant.

ORS 9.136(3) provides specialty representation through designating the chairperson of each of the bar’s specialty sections as an *ex officio* delegate. The OSB has thirty-nine (39) section chairpersons acting as *ex officio* delegates.

Public Members

ORS 9.145 allows the BOG to appoint nonlawyers as public delegates to the HOD. One public member may be appointed from each of the in-state regions. Each public

¹⁷ ORS 9.136(1).

delegate serves a term of three years. Currently, there are five public member delegates, and two vacancies.

Meetings

Under ORS 9.142(2), the BOG sets a time and a place for an annual meeting. Traditionally, the HOD meets annually in late October or early November at the OSB Center in Tigard, Oregon. A special session of the HOD may be called by the President of the Bar if 25 or more delegates submit a request in writing for a special session.¹⁸

The BOG proposes a preliminary agenda for each meeting containing resolutions recommended by the BOG as well as resolutions submitted by delegates.¹⁹ Each preliminary agenda is published to the membership twenty (20) days before the HOD meeting.²⁰ Included in the preliminary agenda are resolutions or questions that the BOG did not place on the HOD agenda when they do not conform to applicable law or OSB policy.²¹ The preliminary agenda may include multiple topics, including fee increases; changes to the Rules of Professional Conduct (RPCs); and resolutions seeking support of indigent defense, the courts, and civil legal aid. At the annual meeting, the HOD may officially adopt the preliminary agenda as the official agenda.²²

During the 2020 pandemic, the HOD met remotely, and utilized an electronic voting platform to conduct business.²³ In 2023, the BOG approved changes to the HOD Rules of Procedures that allow the HOD to utilize a hybrid meeting format that allows for both in-person participation and remote participation.²⁴

Powers

The HOD holds several key powers within the governance structure of the OSB. Those powers are granted through multiple statutes throughout the Bar Act.

Approval of Fee Increases

One of the primary powers of the HOD under ORS 9.191 is to approve any increases in OSB membership fees. The next year's OSB membership fee must be published 20 days

¹⁸ ORS 9.142(1); HOD Rule of Procedure 1.1, available at <https://www.osbar.org/docs/rulesregs/hodrules.pdf>.

¹⁹ HOD Rule of Procedure 5.5.

²⁰ *Id.*

²¹ *Id.*

²² HOD Rule of Procedure 5.6.

²³ ORS 9.142(3).

²⁴ HOD Rule of Procedure 1.3.

before the annual meeting of the HOD, and any proposed increase must be approved by a majority of the HOD.

Adoption of Rules of Professional Conduct

ORS 9.490 gives the HOD the authority to approve any recommended changes to the RPCs which govern the ethical and professional behavior of lawyers in Oregon. While the Oregon Supreme Court ultimately has authority to adopt the changes to the RPCs, the position of the HOD on the RPCs is persuasive to the Court.

Legislative Resolutions

The HOD has historically played a role in advising the BOG around legislative changes that impact the legal profession and the justice system. This includes providing support to the BOG around legislation for indigent defense, public defense funding, court funding, and improvements in the administration of justice.

Directing the BOG

ORS 9.139 gives the HOD the ability to require the BOG to conduct certain actions. This includes modifying or rescinding a prior decision made by the BOG or directing the BOG to future action. However, these powers are limited. ORS 9.139 notes specific limitations on the HOD's powers. The HOD cannot invalidate payments previously made at the direction of the BOG, direct or modify any assessment made by the BOG for the purposes of the Professional Liability Fund (PLF), and cannot direct, modify or rescind any decision by the BOG that is subject to control, approval or review by the Oregon Supreme Court.

Additional limitations are placed on the HOD through substantive law under *Keller v. State Bar of California*, 496 U.S. 1 (1990).²⁵ As the OSB is a unified bar, *Keller* prohibits the use of OSB funds for political or divisive issues not directly related to regulation of the legal profession or the improvement of legal services. Under HOD Rule of Procedure 5.5, the BOG may not add resolutions proposed by delegates that would violate the OSB's policies related to *Keller* or other policies and resolutions that proposes actions that are outside the authority of the HOD to the preliminary agenda.

²⁵ In *Keller v. State Bar of California*, 496 U.S. 1 (1990), the plaintiffs, members of the State Bar of California, objected to the use of their mandatory fees for political causes they did not support. The U.S. Supreme Court ruled that mandatory state bar associations cannot use mandatory membership dues for political or ideological activities unrelated to regulating the legal profession or improving legal services, as it violates attorneys' First Amendment rights. However, the Supreme Court allowed the use of these fees for activities directly related to the bar's regulatory functions, such as disciplinary proceedings and continuing legal education, thereby setting limits on how state bars can spend mandatory dues.

History of Engagement Issues

The HOD is often hindered by varying levels of engagement and participation among its members. Surveys and feedback have indicated that many delegates feel their role is limited and that the agenda items are not compelling enough to warrant active participation. This issue of engagement impacts the HOD's overall effectiveness and its ability to fully represent the membership's interests. It also raises substantial questions as HOD's continued viability and existence as an organ of the OSB.

Roles and Responsibilities

Since its establishment, the HOD has played a role in providing a voice to members on OSB's policies and addressed important issues related to the OSB and the legal profession. Its primary responsibilities have focused on approving fee increases and adopting changes to the RPCs. Over the years, the HOD has also supported the BOG in seeking legislative changes, such as increasing compensation for judges, supporting indigent defense, and increasing funding for civil legal aid.

The HOD has also directed the OSB to conduct comprehensive assessments to understand and address issues within the legal system. For example, in its second annual meeting in 1999, the HOD directed the bar to conduct a comprehensive assessment to determine the prevalence of disability and disability concerns among its members, the public, and the justice system.²⁶ In 2001, the HOD directed the BOG to complete a comprehensive study of the bar's disciplinary system.²⁷ Recently, the HOD passed a resolution in 2022 to develop and adopt formal metrics for the bar to better measure and understand the fairness, inclusivity, and accessibility of Oregon's justice system.²⁸

However, the concept of a HOD for unified bars has fallen out of favor. In a 2017 ABA survey, only 7 of the 35 unified bars continue to have some sort of representative assembly like the HOD.²⁹ Instead, the preferred model utilizes an executive board, such as the OSB's BOG, in order to address issues timely and effectively.

²⁶ Ankur Doshi and Dani Huck, Memorandum: History of the House of Delegates, April 24, 2024, attached as Exhibit 3 at 2.

²⁷ *Id.*

²⁸ *Id.*; 2022 HOD Resolution No. 12, Delegate Resolution No. 2, *Advance a Fair, Inclusive, and Accessible Justice System*.

²⁹ ABA Division of Bar Service, *The 2017 State and Local Bar Benchmarks Survey: Membership, Programming and the Legal Profession*, December 2017.

Common Themes in Engagement

The HOD has faced ongoing challenges, particularly regarding member engagement and maintaining a quorum. In 2008, a scheduled meeting failed to proceed due to a lack of quorum, a situation that underscored the persistent issue of delegate participation.³⁰ The 2013 meeting was also adjourned early due to the absence of a quorum.³¹

Past surveys conducted among HOD members revealed mixed feelings about the effectiveness of the HOD. Many delegates felt their role was limited to procedural matters, with little influence over substantive issues affecting the bar. A review of attendance in 2015 noted that attendance generally averages around 62 percent.³²

The lack of engagement has been a continued problem with the HOD. Judge Tim Gerking, a former BOG member, noted the lack of resolutions and general malaise felt by the HOD that has continued since the inability to achieve quorum in 2008.³³ A survey conducted in 2013 indicated that only 60 percent of current and former HOD members believed that the HOD served a meaningful role in bar governance.³⁴ A number of common themes arose with engagement issues throughout the history of the HOD.

Perfunctory Roles

Over the years, many delegates have felt their role is largely perfunctory, limited to approving fee increases and rule changes, with little influence over broader, more impactful issues. This sentiment has been echoed in various surveys and reports, highlighting a need for more engaging and substantive agenda items.

Quorum Challenges

Maintaining a quorum remained an issue for the HOD. The 2008 meeting was cancelled due to the lack of quorum, and the 2013 meeting was adjourned early due to the absence of a quorum. There have been several times where there was a concern among staff of being able to meet quorum for the HOD to conduct business.

Urban-Rural Divide

There has been a notable urban-rural divide, with delegates from outside the Portland metro area feeling underrepresented. The composition of the HOD, heavily weighted towards metro areas due to the population distribution of lawyers, has

³⁰ Sylvia Stevens, Memorandum: HOD Evaluation Background, June 27, 2015, attached as Exhibit 4, at 2.

³¹ *Id.*

³² *Id.* at 3.

³³ Timothy C. Gerking, Letter to Kateri Walsh, OSB Urban/Rural Task Force re: Issues Relating to the House of Delegates, July 19, 2010, attached as Exhibit 5.

³⁴ Kay Pulju, Memorandum, HOD member Survey, June 11, 2013, attached as Exhibit 6.

exacerbated this issue. This issue has especially risen due to the number of *ex officio* delegates, the majority of which reside or work in the urban areas of Oregon.

Proposals for Engagement

Over the past 30 years, various proposals have been made to enhance the HOD's effectiveness and engagement. Judge Gerking's suggestions in 2010 aimed to energize the HOD and increase participation from delegates outside the Portland metro area.³⁵ These included the creation of regional chairs, holding annual meetings of regional chairs, encouraging HOD members to attend BOG meetings, and making HOD issues a regular topic at BOG meetings.³⁶ One recommended change was for the allowance of videoconferencing and remote attendance to the HOD. Other recommendations included the establishment of an executive committee and improved communication between the HOD and BOG. The BOG's Policy and Governance Committee reviewed those options in March 2011, but ultimately took no action at that time.³⁷

In 2020, due to the COVID-19 pandemic, the HOD switched to fully remote participation.³⁸ The change was met with positive response, as delegates who previously could not attend due to the time required to travel to the OSB Center were able to participate. The HOD continued fully remote participation in 2021. In 2022, the HOD switched to a hybrid format. The BOG considered the success of the hybrid format in 2022, and proposed making the option available for a hybrid format for the HOD. The BOG proposed changes to the HOD Rules of Procedure to permanently allow a hybrid format for the HOD in 2023, which the HOD overwhelmingly approved.³⁹

HOD Engagement Committee

At the 2023 HOD meeting, delegate Danny Lang, an *ex officio* delegate from Region 3, presented Delegate Resolution No. 2, seeking to enhance engagement and communication between the HOD and the BOG.

During the meeting, Mr. Lang emphasized the need for more active participation and structured engagement within the HOD. He highlighted the lack of resolutions addressing critical issues in the legal field; and the lack of communication about the result of those

³⁵ Ex. 5 at 3.

³⁶ *Id.* at 3-4.

³⁷ March 18, 2011 Minutes, Board of Governors Policy and Governance Committee: Suggested Changes to HOD.

³⁸ 2020 HOD Meeting Agenda, October 30, 2020, available at <https://www.osbar.org/docs/leadership/hod/2020/20HODagenda.pdf>.

³⁹ 2023 HOD Transcript at 43:14-16 (the votes were 158 yes, 0 no, and 1 abstention).

resolutions passed by the HOD.⁴⁰ Mr. Lang emphasized a need for better coordination between the HOD and the BOG on matters, as well as follow up after the HOD meets. He proposed the creation of an advisory committee consisting of two members from each HOD and BOG region to foster the development and follow-up of resolutions.⁴¹

Ex officio delegate Curtis Peterson proposed a friendly amendment to the motion, seeking to have the BOG study and make recommendations on how to improve HOD engagement as well as communication between the BOG and the HOD.⁴² The friendly amendment was accepted by Mr. Lang, and the resolution was amended.⁴³ The amended resolution was adopted by the HOD with a vote of 126 yes, 12 nos, and 15 abstentions.⁴⁴

The text of the amended resolution, setting the charge for the Engagement Committee, read:

The objectives of the HOD Engagement Committee, as set forth by the Delegate Resolution are to study and make recommendations to

Improve Engagement: Explore strategies to enhance participation and involvement within the House of Delegates.

Strengthen Communication: Foster better communication and coordination between the Board of Governors (BOG) and the HOD.

In March 2024, the OSB sent an email to the HOD asking for volunteers to join the Engagement Committee. Nine delegates volunteered, and the BOG appointed them to the Engagement Committee at their April 2024 meeting.

First Meeting

The Engagement Committee had its first meeting on May 17, 2024.⁴⁵ At its first meeting, the Engagement Committee discussed the history of the HOD and many of the issues facing engagement that had persisted throughout the HOD.

The Engagement Committee discussed many of the concerns that had been raised about the HOD. Of note was the continued feeling from delegates that the HOD was perfunctory in nature, and only a small number of delegates proffered resolutions.⁴⁶

⁴⁰ *Id.* at 88:19-89:17.

⁴¹ *Id.*

⁴² *Id.* at 90:24-91-5.

⁴³ *Id.* at 91:18-23.

⁴⁴ *Id.* at 93:3-5.

⁴⁵ HOD Engagement Committee Minutes, May 17, 2024, attached as Exhibit 7.

⁴⁶ *Id.*

Additional concerns raised were the urban/rural issue, and how it tended to isolate those delegates outside of the urban regions of Oregon.⁴⁷ Another question was whether the parliamentary procedure created unnecessary process that detracted from engagement.⁴⁸

The Engagement Committee reflected on the relationship to the HOD in the governance of the OSB. It noted that the BOG generally acts as the executive leadership; and utilizes twelve standing committees to assist in the BOG's decision making process.⁴⁹ BOG members are also considered fiduciary members to the OSB, and as such they cannot act in the representation of their constituents. The HOD, in turn, acts as a representative body, where delegates can raise issues important to their constituency. The HOD's lack of engagement over the past decades raised questions about whether this still was an effective model to allow members to provide input into the governance of the OSB.

The communication between the BOG and the HOD was a substantial concern among the Engagement Committee.⁵⁰ Of note, the Engagement Committee noted that there was no clear path of communication about actions that the BOG undertook because of HOD resolutions. Many times, HOD resolution actions would not be heard until the next annual meeting, and sometimes, there was not any further follow up on a HOD resolution.⁵¹ Potential concepts were considered, including updates via email on HOD resolutions, legislative tracking on the website of HOD resolutions, or earlier communication about HOD matters.

The Engagement Committee requested that the OSB collect additional information about the HOD, and its current sentiment towards engagement. The OSB indicated that it would submit a survey to former and current HOD members, and provide results at the next meeting.

HOD Survey

The OSB sent a 29-question survey to current HOD members as well as former HOD members from over the last 10 years eliciting feedback on HOD engagement.⁵² It sent out approximately 800 emails on May 31, 2024, and a second reminder email on June 14, 2024. The survey remained open until June 16, 2024.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² A copy of the 2024 HOD Engagement Survey questions, as well as the responses, are attached as Exhibit 8.

The survey received 81 responses from the initial inquiries sent, a response rate of approximately 10 percent.⁵³ The survey was responded by several seasoned delegates and former delegates, with about 46 percent of the respondents having served in the HOD for 20 years or more.⁵⁴ When asked about their frequency of participation in HOD activities, 25.71% of respondents indicated that they often participate, while 35.71% participate sometimes.⁵⁵ However, 20.00% of delegates rarely participate, and 8.57% never do, with only 10.00% always being active. This distribution highlights a need for more consistent engagement.⁵⁶

Regarding satisfaction with the actions taken by the OSB following the resolutions passed by the HOD, the responses were mixed. Only 7.25% of delegates reported being very satisfied, and 24.64% were satisfied. The majority, 49.28%, remained neutral, while 15.94% expressed dissatisfaction and 2.90% were very dissatisfied.⁵⁷

The survey did not find any indication of concerns surrounding the parliamentary procedure utilized by the HOD. When asked whether the current parliamentary process encourages discussion, 10.00% of respondents strongly agreed, and 41.43% agreed. Meanwhile, 28.57% were neutral, and 15.71% disagreed, with 4.29% strongly disagreeing.⁵⁸ There was no indication that the rules related to closing debate needed to be amended, as the Engagement Committee had previously hypothesized.

In terms of the perceived impact of the HOD on the governance of the OSB, 11.59% of respondents believed the HOD has a very significant impact, and 31.88% felt it had a somewhat significant impact. Meanwhile, 18.84% were neutral, and 30.43% thought the impact was not very significant.⁵⁹ A small portion, 7.25%, felt the HOD had no significant impact at all.⁶⁰ Communication between the HOD and the BOG also drew varied responses. Only 2.90% of respondents felt the communication was very effective, while 11.59% found it somewhat effective.⁶¹ A significant portion, 52.17%, remained neutral, while 20.29% viewed the communication as somewhat ineffective, and 13.04% found it very ineffective.⁶²

⁵³ 2024 HOD Engagement Survey, Ex. 8 at 1.

⁵⁴ *Id.*

⁵⁵ *Id.* at 8.

⁵⁶ *Id.*

⁵⁷ *Id.* at 25.

⁵⁸ *Id.* at 13.

⁵⁹ *Id.* at 26.

⁶⁰ *Id.*

⁶¹ *Id.* at 19.

⁶² *Id.*

When it came to submitting resolutions, a large majority, 81.16%, of delegates have never submitted a resolution to the HOD. Only 18.84% have taken this step, indicating uncertainty about the process or doubts about the effectiveness of their contributions.⁶³

Finally, in assessing the overall effectiveness of the HOD, 14.08% of respondents strongly agreed that the HOD is an effective part of the OSB, and 40.85% agreed.⁶⁴ However, 25.35% remained neutral, 11.27% disagreed, and 8.45% strongly disagreed.⁶⁵ These responses reflect a general belief in the effectiveness of the HOD, but also highlight areas for improvement to increase the confidence and satisfaction of all members.

Second Meeting

The Engagement Committee met again on June 26, 2024 to review the responses to the survey and determine what actions to potentially recommend to the BOG.⁶⁶ The Engagement Committee identified several areas that were of concern related to engagement with the HOD. One aspect was the continued concern about communication between the Bar and the HOD throughout the year, as opposed to just close in time to the HOD meeting.⁶⁷ Another aspect was lack of communication between the BOG and the HOD, which made matters that appeared on the HOD Agenda from the BOG a surprise to many HOD delegates.⁶⁸ Engagement Committee members noted that one aspect brought as a reoccurring theme was the HOD was for members to engage socially and interact. Several open-ended responses indicated that HOD delegates particularly enjoyed this aspect of the HOD, and the Engagement Committee ventured that the OSB should capitalize on that to increase engagement.⁶⁹ The survey noted that HOD delegates were willing to engage with the HOD more than the requisite one meeting each year if provided the opportunity.

The Engagement Committee considered multiple suggestions as potential areas to expand and increase HOD engagement, with a substantial focus being on communication specifically tailored to the HOD. The Engagement Committee agreed to recommend several actions could substantially increase HOD engagement.⁷⁰ Those actions are listed in the Engagement Committee's Recommendations.

⁶³ *Id.* at 27.

⁶⁴ *Id.*

⁶⁵ *Id.* at 10.

⁶⁶ HOD Engagement Committee Minutes, June 26, 2024, attached as Exhibit 9.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

The Engagement Committee also discussed other concepts that were not recommended.⁷¹ These concepts included changing the venue of the HOD meeting to Willamette University or to the Oregon Supreme Court/Court of Appeals in Salem, Oregon, but noted that there would be a substantial cost to the OSB for this concept.⁷² It also considered moving back to an in-person format to increase engagement through in-person attendance, but noted that such an action would likely result in lower attendance from rural delegates who did not want to travel to the Portland metro area.⁷³ Additionally, the ability to attend remotely has been seen as a favorable change to many delegates.

Additional ideas considered but not acted on were to have an additional HOD meeting in the year, and also to have a free drawing for OSB dues to one delegate who attended.

Third Meeting

The Engagement Committee met for a third time on July 24, 2024, to review a draft of this report and discuss recommendations.⁷⁴ The Engagement Committee generally agreed on recommendations that sought to increase communication between the OSB and HOD delegates, as well as expand events to have more inclusion of HOD delegates. The Engagement Committee discussed the potential for an executive board composed of HOD delegates, but there were concerns about an executive board being substantially more oversight than needed on the HOD.⁷⁵

The Engagement Committee also discussed measures for implementation as well as future actions for the Engagement Committee. The Engagement Committee reviewed several quantitative and qualitative measures to gauge change in engagement and the effectiveness of their recommendations. These measures looked at the general composition of the HOD, elections of HOD delegates, participation through attendance and presentation of delegate resolutions, as well as subjective measures through surveys.⁷⁶ Additional measures discussed reviewing the number of communications sent to HOD delegates, engagement with the BOG, and information about the OSB's actions with passed resolutions. The Engagement Committee settled on several measures and

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ HOD Engagement Committee Minutes, July 24, 2024, attached as Exhibit 10.

⁷⁵ *Id.*

⁷⁶ *Id.*

recommendations to monitor engagement after the implementation noted in the Measure section.⁷⁷

Recommendations

The Engagement Committee recommends the BOG considers these following options to bolster HOD engagement and increase communication between the HOD and the BOG.

- **Initial Introduction and Orientation** – The Engagement Committee indicated that, once elected, it would be helpful from the start to have communications discussing the HOD and the need to network and communicate with HOD and the BOG. An initial email to HOD delegates after HOD elections would start the process. Additional training materials, including the basics of drafting a resolution, along with details and examples of resolutions, would make the process seem less challenging. Having the initial orientation for the HOD shortly after election (in April) instead of the current time would provide more opportunities for delegates to draft resolutions. Additionally, the orientation should be expanded to also include information about the current topics that the BOG is considering, future BOG meetings and schedules, and other issues that may be considered by the HOD. The Engagement Committee also noted that regions should have specific breakouts during orientation to allow delegates time for discussion and networking as well.
- **HOD Communication about Resolutions** – The Engagement Committee saw that there was substantial benefit in creating follow-up information about HOD Resolutions prior to the next annual meeting. The Engagement Committee recommends that the OSB communicate to the HOD about resolutions on a periodic basis throughout the year. The Engagement Committee would recommend an initial follow-up to HOD delegates within 90 days after the HOD meeting, followed by a second update within 180 days after the HOD meeting.
- **Increased BOG-HOD Communication** – In reviewing communications between the BOG and the HOD, the Engagement Committee noted that the BOG does provide substantial communication to all members of the OSB, but also believed that targeted communication to specific HOD members would greatly increase engagement among HOD delegates. To that end, the Engagement Committee

⁷⁷ *Id.* The HOD Engagement Committee held a fourth meeting on September 5, 2024 where it approved this report unanimously with minor corrections and an additional recommendation.

recommended that the HOD receive as a separate communication targeting HOD delegates the following information:

- Initial itinerary of BOG meeting dates and locations to be provided at orientation, along with information about the location to find the BOG's agenda for each meeting.
- Invitations for HOD members to attend regional OSB tours and events. These invitations are sent to all members, but the Engagement Committee noted that targeting HOD members about this opportunity may foster more discussion between HOD members and the SOB President.
- Direct updates to HOD members about BOG actions. While similar to the BOG Action email sent to all members, the Engagement Committee noted that having actions related to OSB issues targeted to HOD delegates would help to raise awareness of issues that the HOD may discuss.
- Updates on BOG Actions in relation to HOD resolutions prior to a meeting.

The Engagement Committee also requests that the BOG review and study the feasibility of establishing a small committee of HOD members (approximately 2-5 members) to liaise with the BOG and act as leaders for the HOD. This group would necessarily require funding, and the Engagement Committee would request that the BOG review whether engagement would be improved by providing funding to such a committee.

- **Networking and Engagement** – The Engagement Committee noted that one of the often-cited reasons for attending a HOD meeting was the networking between members of the OSB occurring at the meeting. The Engagement Committee thought that it would be worthwhile to encourage this networking through a secondary event at or around the same time as the HOD meeting. A social event, such as the Celebrating Oregon Lawyers event, which occurs around the same time as the HOD meeting could provide a venue if the HOD were encouraged to attend as HOD delegates. Additionally, the concept of a potential CLE event connected to the HOD meeting was identified as viable as well. The Engagement Committee also noted that having smaller in-person regional networking meetings could be helpful to

engage members, though there would be a potential cost to the OSB to hold such regional meetings.

The Engagement Committee proposed that, based on this report and the recommendations of the Engagement Committee, the resolution included within this Report be submitted to the HOD on behalf of the BOG and this Engagement Committee.

Governance Structure

The Engagement Committee also discussed at two meetings whether to pursue recommending the restructure of the HOD to a different form. Initially, the Engagement Committee noted that the HOD was a unique organ in the governance of the OSB. Most organizations that utilized a representative body also chose an executive committee from that representative body to function as the fiduciary board of that organization. Additional specialized committees are formed within the representative body to research and provide issues to be discussed by the executive committee, or by the representative body as a whole.

The governmental structure of the OSB is fundamentally different. The BOG is elected directly from the same regions as HOD delegates.⁷⁸ BOG members have fiduciary duties to execute the mission and the functions of the OSB, and oversight over the OSB.⁷⁹ The BOG also forms committees to study issues and make recommendations, usually directly to the BOG itself.⁸⁰

The Engagement Committee noted that this places the HOD in a somewhat peculiar position where the BOG conducts most of the activity surrounding OSB policy and governance and places the HOD with limited objectives. Delegates within the survey noted the feeling that the HOD's actions are more perfunctory in nature.⁸¹

The Engagement Committee visited the potential concept of proposing to the HOD the undertaking a more in-depth study to review the governance structure of the OSB and determine whether an alternative structure should be considered based on other membership organizations. Potential concepts included reducing the number of delegates within the HOD or revising the role of the HOD to a more engaged advisory committee that directly communicated and reported to the BOG.

⁷⁸ ORS 9.025.

⁷⁹ ORS 9.080.

⁸⁰ Bar Bylaw Section 13.1; 13.2.

⁸¹ Ex. 8 at 26.

The Engagement Committee ultimately concluded that undertaking this study would be premature at this time. It also noted that such a study would likely take at least two years and also cost a substantial amount to the OSB. Instead, the Engagement Committee opted to first consider the options highlighted within this Report and evaluate whether engagement within the HOD improves. Additionally, the Engagement Committee noted that further engagement would help to facilitate any revisions to the governance structure in the future, if necessary. Based on those discussions, the Engagement Committee tabled conducting a study to revise the OSB's governance structure.

Measures of Engagement

The Engagement Committee emphasized the need to also develop indicators that would allow the OSB to measure the effectiveness of the recommendations. The Engagement Committee proposed the following indicators to measure the effectiveness of HOD engagement.

Proposed Indicators

- **Diversity and Representation** – The Engagement Committee reviewed several measures that sought to evaluate the diversity and representation of HOD delegates in comparison to the general bar membership as well as the population of Oregon.
 - *Diversity of HOD Members* – One key metric discussed was the diversity of HOD members compared to the general membership of the OSB. This would include tracking the representation of different demographic groups, such as gender, ethnicity, and geographic location, within the HOD. The Engagement Committee acknowledged the importance of ensuring that the HOD reflects the diversity of the legal profession in Oregon.
 - *Length of HOD Member Service* – Tracking how long members serve on the HOD could provide insights into the continuity and turnover within the body, potentially identifying whether newer members are being engaged effectively or if the same individuals continue to dominate the positions.
- **Election Dynamics** – Along with the composition of the HOD, several factors about the election of HOD delegates can provide key indicators of engagement and level of interest in the HOD. The Engagement Committee noted that the OSB should measure the following indicators.

- *Number of Contested Elections* – The Engagement Committee proposed monitoring the number of contested elections for HOD positions as a measure of interest and engagement among the OSB membership. A higher number of contested elections would indicate a healthy level of competition and involvement in the governance of the bar.
- *Full Slate of Candidates* – Another measure would be whether a full slate of candidates is seeking election to the HOD. This would help determine if there is widespread interest in participating in the HOD or if certain regions or demographics are underrepresented due to a lack of candidates.
- *Number of Incumbent Candidates Rerunning* – Tracking the number of HOD members who choose to rerun in subsequent elections after their initial term expired would provide an additional indicator of engagement. This measure provides insight into the satisfaction and commitment of HOD members. A higher rerun rate may indicate that members find their roles meaningful and are motivated to continue serving, while a lower rate might suggest the need for improvements in engagement, support, or satisfaction with the HOD experience.
- **Annual Meeting Engagement Levels** – HOD engagement levels would rely on actions occurring at the HOD’s annual meeting to evaluate engagement.
 - *Number of Delegate Resolutions* – The frequency and variety of resolutions submitted by HOD delegates would serve as a direct measure of engagement. An increase in resolutions would indicate that delegates are actively participating in shaping the agenda and addressing key issues within the legal community.
 - *Quorum and Participation Rates* – Regularly meeting quorum and tracking the attendance at HOD meetings are critical indicators of engagement. The committee discussed the importance of these metrics in ensuring that the HOD can function effectively and that its members are committed to participating in the process.
 - *Number of Unique Speakers* – Measuring how many different delegates speak during meetings would provide insight into whether discussions are

dominated by a few individuals or if there is broad participation. This would help ensure that a diverse range of voices is heard during HOD deliberations.

- *Satisfaction with Orientation Meeting and Annual Meeting* – The Engagement Committee proposed conducting a survey shortly after the annual meeting to gauge satisfaction with both orientation and annual HOD meetings. Satisfaction levels could indicate whether the meetings are productive and engaging for the delegates.
- **Communication Effectiveness** – The Engagement Committee noted that a substantial focus of engagement was on communication to the HOD on multiple levels through the OSB as well as the BOG. These measures seek to evaluate the effectiveness of those communications.
 - *BOG-HOD Communications* – The Engagement Committee discussed the need to assess how well HOD members understand the actions and decisions of the BOG. This could be measured through the number of communications sent to delegates about BOG actions, as well as surveys that ask delegates about their awareness and understanding of BOG activities.
 - *Follow-Up on Resolutions* – Another proposed indicator was to track whether the communications recommended by the Engagement Committee, particularly those related to the follow-up on HOD resolutions, are being sent to delegates, and the number of delegates reviewing those communications. This would include monitoring the timing and content of these updates to ensure that delegates are kept informed about the status of resolutions throughout the year.
 - *HOD Engagement outside of the Annual Meeting* – As the Engagement Committee recommend pairing BOG events with the HOD through HOD communication, the Engagement Committee believed that measuring the effectiveness of those communications could be achieved through the measurement of HOD members at OSB events, including OSB tours and Celebrate Oregon Lawyers.

Future Action

Based on these recommendations, the Engagement Committee recommends that the BOG adopt this Report, and propose to the HOD the attached resolution for adoption by the 2024 HOD. Upon adoption by the HOD, the OSB would seek to implement these recommendations over 2025. This Engagement Committee's authority under the 2023 HOD Delegate Resolution No. 2 ends with the submission of this Report to the BOG and the HOD.

The OSB will provide measures and data back to the BOG and the Engagement Committee members in 2025. With advice from the Engagement Committee members, the BOG will evaluate after the 2025 HOD Annual Meeting to determine if additional steps are required. The BOG may opt to reappoint the Engagement Committee, evaluate whether to create a permanent standing committee on HOD Engagement, or whether to conduct a complete review and evaluation of the governance structure of the OSB.

Conclusion

The Engagement Committee thanks the HOD, the BOG, and the OSB for entrusting them with this opportunity to increase engagement within the HOD and make the HOD an effective part of the OSB. These recommendations proposed by this Engagement Committee are a first step to improving engagement within the HOD.

The success of these recommendations will depend on the continued commitment of HOD members, the BOG, and the broader OSB membership. Through collective effort and ongoing evaluation, the HOD can become an effective body within the OSB, better reflecting the diverse interests of its members and the communities they serve.

Proposed Resolution No. ____

**Proposed Resolution to Increase HOD Engagement and Increase Communication
between the HOD and the BOG**

Whereas, throughout the existence of the HOD, there has always been concerns about the engagement of the HOD; and

Whereas, the HOD, in 2023, adopted Delegate Resolution No. 2, requesting that the BOG appoint a volunteer committee to study and make recommendations on how to improve HOD engagement as well as communication and coordination between the BOG and the HOD; and

Whereas, in April 2024, BOG appointed such a committee, known as the HOD Engagement Committee consisting of delegates Peter Werner from Region 1, Danny Lang from Region 3, Maureen McGee from Region 5, John Bachofner from Region 8, David Wu from Region 5, Howard Newman from Region 5, Kristie Gibson from Region 2, and public member Eddie Passadoré; and

Whereas, the HOD Engagement Committee studied the issues surrounding HOD Engagement and communication and coordination between the HOD and the BOG and adopted a report; and

Whereas, the HOD Engagement Committee submitted the report to the BOG and the HOD about methods to increase engagement and increase communication and coordination with the BOG; and

Whereas, the BOG adopted the HOD Engagement Committee's report at its September 2024 meeting; now be it

Resolved, that the HOD adopts the HOD Engagement Committee's report; and be it further

Resolved, that the HOD recommends the BOG and the Bar adopt the recommendations made by the HOD Engagement Committee to increase engagement and to increase communication between the HOD and the BOG, including, but not limited to:

- a. Providing a more thorough and detailed orientation, including an earlier date for orientation, resources on drafting resolutions,
- b. Providing more HOD focused communication, including updates on status of resolutions passed by the HOD, BOG actions that may be of interest to the HOD, and opportunities for the HOD to communicate with the BOG,
- c. Providing additional opportunities for networking; and be it further

Resolved, that the BOG will evaluate engagement after the 2025 HOD Annual Meeting based on the effectiveness of these actions through the measures provided within the Report, and determine whether additional steps, including reappointing the Committee are necessary.