

Meagan A. Flynn
Chief Justice



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OREGON SUPREME COURT

May 21, 2026

VIA EMAIL ONLY

Ankur Doshi
General Counsel
Oregon State Bar
ADoshi@osbar.org

Re: Proposed Amendments to RPC 8.3 and RPC-LP 8.3;
Immediate Posting for Public Comment

Dear Ankur:

As you know, at the court's May 12, 2026, public meeting, the court approved moving directly to public comment on proposed amendments to Rule 8.3 of the Rules of Professional Conduct and Rule 8.3 of the Rules of Professional Conduct for Licensed Paralegals. The court appreciates the swiftness with which the Oregon State Bar posted the court's request for public comment on its website. This letter serves to document the court's request and to explain why the court approved foregoing the ordinary process of having the OSB House of Delegates (HOD) consider and approve the amendments before they were released for public comment.

The Oregon Judicial Department plans to open its new Office of the Ombudsman to the public in 2026. As noted in the submission provided to the court at the May 12, 2026, meeting (which is attached to this letter), the court must approve amendments to both versions of Rule 8.3 before the public opening. As the HOD does not meet until October, following the ordinary process for proposed rule amendments was not possible. Accordingly, the court approved moving directly to the public comment stage. The court, of course, welcomes delegates to provide any comments they may have on the proposed rules via the public comment process.

Once the public comment period closes, we expect that the Office of the Ombudsman will submit the proposed amendments to the court, along with any submitted comments, for consideration at a public meeting. When that occurs, the court will include the request on its public meeting agenda.

Sincerely,

A handwritten signature in cursive script that reads "Meagan A. Flynn". The signature is written in black ink and is positioned below the word "Sincerely,".

Meagan A. Flynn
Chief Justice

Memo supporting Supreme Court public meeting topic: Requested approval of rules amendments relating to Office of the Ombudsman (proposed amendment to Rule 8.3 of the Rules of Professional Conduct (and RPC-LP); and proposed amendment of Rules 3.5 and 3.11 of the Code of Judicial Conduct).

On behalf of Interim Ombudsman Henry Kantor and the Oregon Judicial Department's Office of the Ombudsman, please consider the proposed rule changes to Rule 8.3 of the Rules of Professional Conduct (and the Rules of Professional Conduct for Licensed Paralegals) and Rules 3.5 and 3.11 of the Code of Judicial Conduct. The need for the rule changes stems from two concerns. First, that judges and lawyers (and potentially paralegals) working for or on behalf of the Office of the Ombudsman will learn information about other judges or attorneys that would ordinarily require them to report a violation of the Rules of Professional Conduct or Code of Judicial Conduct. Second, that the Code of Judicial Conduct should explicitly state a requirement to comply with an order of the Chief Justice to follow recommendations of the Ombudsman.

The duty to report

Integral to the core mission of the Office of the Ombudsman is the ability to have frank conversations with judges regarding concerns about those judges raised by users of the court system. To that end, the Chief Justice has already established an interim confidentiality rule for the Office (CJO 25-023). Additionally, our draft rules, approved by the Ombudsman Steering Committee and now submitted to the Judicial Conference for comment, provide robust confidentiality protection to judges engaged with the Office. However, this could place a judge, lawyer, or paralegal doing work for the Office in conflict with a rule creating a duty to report.

A judge, lawyer, or paralegal doing work for the Office of the Ombudsman, may learn through the course of their work that another judge or lawyer has violated a Rule of Professional Conduct or the Code of Judicial Conduct. In some cases that violation triggers a requirement to report the violation to the appropriate authority. See RPC 8.3 (Reporting Professional Misconduct), RPC-LP 8.3 (Reporting Professional Misconduct), and Code of Judicial Conduct Rule 3.11 (Responding to Judicial and Lawyer Misconduct).

Much like the current exception for those who learn similar information while doing work for the Professional Liability Fund (RPC 8.3(c)(3), and CJC Rule 3.11(c)), we seek an exception to the reporting requirement. This exception is necessary for judges, attorneys, and paralegals working with the Office of the Ombudsman to maintain confidentiality

required by Ombudsman rules and to have frank, fruitful conversations with judges engaging with the Office. The proposed changes to the RPC, RPC-LP, and the CJC all exempt lawyers, paralegals, or judges, respectively, who obtain such knowledge while “acting as an employee, agent, or designee of the Office of the Ombudsman within the Oregon Judicial Department.”

With respect to the RPC and RPC-LP, we have been working with the State Bar to amend the rules. We anticipated approval by the House of Delegates at their October meeting, with formal adoption by the Supreme Court coming later. We plan to open the Office of the Ombudsman to the public before that meeting, so we do not have time to wait for approval by the House of Delegates. We therefore request approval to promulgate these changes as soon as possible so that this reporting exception will be in place when the Office opens to the public. Specifically, we ask the Court to direct the Oregon State Bar to post the proposal for public comment.

Compliance with Chief Justice Orders

Our draft rules allow the Chief Justice to order a judge to engage with the Office of the Ombudsman. We call this a notice to engage. The rules further allow the Chief Justice to refer any failure to comply with a notice to engage to the Fitness Commission. After discussion with the Fitness Commission and a review of the Code of Judicial Conduct, we believe that it would benefit the bench to make explicit in the Code that judges are required to comply with the Chief Justice’s order. Our proposal requires judges to “comply with any order issued by the Chief Justice of the Oregon Supreme Court which requires following the recommendations of the Ombudsman.”

RULE 8.3 REPORTING PROFESSIONAL MISCONDUCT

(a) A lawyer who knows that another lawyer or LP has committed a violation of the Rules of Professional Conduct or the Rules of Professional Conduct for LPs that raises a substantial question as to that lawyer's or LP's honesty, trustworthiness or fitness as a lawyer or LP in other respects shall inform the Oregon State Bar Client Assistance Office.

(b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

(c) This rule does not require disclosure of information otherwise protected by Rule 1.6 or ORS 9.460(3), or apply to lawyers who obtain such knowledge or evidence while:

(1) acting as a member, investigator, agent, employee or as a designee of the State Lawyers Assistance Committee;

(2) acting as a board member, employee, investigator, agent or lawyer for or on behalf of the Professional Liability Fund or as a Board of Governors liaison to the Professional Liability Fund;

(3) participating in the loss prevention programs of the Professional Liability Fund, including the Oregon Attorney Assistance Program; or

(4) acting as an employee, agent, or designee of the Office of the Ombudsman within the Oregon Judicial Department.

(d) This rule does not require disclosure of mediation communications otherwise protected by ORS 36.220.

RULE 8.3 REPORTING PROFESSIONAL MISCONDUCT

(a) An LP who knows that another LP or lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that LP's or lawyer's honesty, trustworthiness or fitness as an LP or lawyer in other respects shall inform the Oregon State Bar Client Assistance Office.

(b) An LP who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

(c) This rule does not require disclosure of information otherwise protected by Rule 1.6 or ORS 9.460(3), or apply to LPs who obtain such knowledge or evidence while:

(1) acting as a member, investigator, agent, employee or as a designee of the State Lawyers Assistance Committee;

(2) acting as a board member, employee, investigator, agent or LP for or on behalf of the Professional Liability Fund or as a Board of Governors liaison to the Professional Liability Fund;

(3) participating in the loss prevention programs of the Professional Liability Fund, including the Oregon Attorney Assistance Program; or

(4) acting as an employee, agent, or designee of the Office of the Ombudsman within the Oregon Judicial Department.

(d) This rule does not require disclosure of mediation communications otherwise protected by ORS 36.220.

Rule 3.5 Competence, Diligence, and Cooperation

- (A) A judge shall perform judicial and administrative duties competently and diligently.
- (B) A judge shall require court staff, court officials, and others subject to the judge's direction and control to perform their employment duties in a manner consistent with the judge's obligations under this Code.
- (C) In making administrative appointments, a judge shall exercise the power of appointment impartially and on the basis of merit.
- (D) A judge shall cooperate with other judges and court officials in the administration of court business.
- (E) A judge shall comply with any order issued by the Chief Justice of the Oregon Supreme Court which requires following the recommendations of the Ombudsman.

Rule 3.11 Responding to Judicial and Lawyer Misconduct

- (A) A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question regarding the judge's honesty, trustworthiness, or fitness as a judge in other respects, shall inform the appropriate authority.
- (B) A judge having knowledge that a lawyer has committed a violation of the Oregon Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects, shall inform the appropriate authority.¹²
- (C) This rule does not apply to judges who obtain such knowledge while participating in a loss prevention program of the Professional Liability Fund, such as the Oregon Attorney Assistance Program, or while acting as an employee, agent, or designee of the Office of the Ombudsman within the Oregon Judicial Department.