

Enrolled
Senate Bill 324

Sponsored by Senator WALKER; Senator GORDLY

CHAPTER

AN ACT

Relating to confidentiality involving public body; creating new provisions; and amending ORS 17.095 and 36.230.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 17.095 is amended to read:

17.095. (1) [No] **A** public body, or officer, employee or agent of a public body, who is a defendant in an action under ORS 30.260 to 30.300, or who is a defendant in an action under ORS 294.100, [shall] **may not** enter into any settlement or compromise of the action if the settlement or compromise requires that the terms **or conditions** of the settlement or compromise be confidential.

[(2) Notwithstanding subsection (1) of this section, the court may, after an expedited examination in chambers, order that terms and conditions of a settlement or compromise of an action be confidential if the court determines, by written findings, that specific privacy interests of a private individual outweigh the public's interest in the terms of the settlement or compromise.]

(2) Notwithstanding subsection (1) of this section:

(a) A public body, or officer, employee or agent of a public body, may enter into a settlement or compromise that requires the terms or conditions to be confidential if federal law requires terms or conditions of that settlement or compromise to be confidential. Only terms and conditions that are required to be confidential under federal law may be confidential in the settlement or compromise.

(b) A court may order that the terms or conditions of a settlement or compromise that reveal the identity of a person be confidential if:

(A) The person whose identity is revealed is a victim of sexual abuse or is under 18 years of age; and

(B) The court determines, by written findings, that the specific privacy interests of the person outweigh the public's interest in the terms or conditions.

(3) Any public body, or officer, employee or agent of a public body, who is a defendant in an action under ORS 30.260 to 30.300, or who is a defendant in an action under ORS 294.100, shall file with the court a full and complete disclosure of the terms and conditions of any settlement or compromise of the claims against the public body, its officers, employees or agents. The disclosure shall be filed prior to the dismissal of the action.

(4) For the purposes of this section:

(a) "Action" means a legal proceeding that has been commenced as provided in ORCP 3; and

(b) "Public body" has that meaning given in ORS 30.260.

SECTION 2. ORS 36.230 is amended to read:

36.230. (1) Except as provided in this section, mediation agreements are not confidential if a public body is a party to the mediation or if the mediation is one in which a state agency is mediating a dispute as to which the state agency has regulatory authority.

(2) If a public body is a party to a mediation agreement, any provisions of the agreement that are exempt from disclosure as a public record under ORS 192.410 to 192.505 are confidential.

(3) If a public body is a party to a mediation agreement, and the agreement is subject to the provisions of ORS 17.095, the terms of the agreement are confidential to the extent that those terms are [ordered by a court to be] confidential under ORS 17.095 (2).

(4) If a public body is a party to a mediation agreement arising out of a workplace interpersonal dispute:

(a) The agreement is confidential if the public body is not a state agency, unless the public body adopts a policy that provides otherwise;

(b) The agreement is confidential if the public body is a state agency only to the extent that the state agency has adopted a rule under ORS 36.224 that so provides; and

(c) Any term of an agreement that requires an expenditure of public funds, other than expenditures of \$1,000 or less for employee training, employee counseling or purchases of equipment that remain the property of the public body, may not be made confidential by a rule or policy of a public body.

SECTION 3. The amendments to ORS 17.095 and 36.230 by sections 1 and 2 of this 2005 Act apply to actions and mediations commenced on or after the effective date of this 2005 Act.

Passed by Senate May 6, 2005

.....
Secretary of Senate

.....
President of Senate

Passed by House June 7, 2005

.....
Speaker of House

Received by Governor:

.....M.,....., 2005

Approved:

.....M.,....., 2005

.....
Governor

Filed in Office of Secretary of State:

.....M.,....., 2005

.....
Secretary of State