

**OAR 863-015-0225**

**Investigation of Licensees: Procedures and Reporting**

- (1) The agency shall use the methods and procedures in this rule to investigate complaints that allege grounds for discipline under ORS 696.301.
- (a) The commissioner or an agency manager shall review the complaint to determine whether there are reasonable grounds to believe that a violation of ORS 696.007 to 696.995, or any rule promulgated thereunder, may have occurred that constitutes grounds for discipline under ORS 696.301. Reasonable grounds means a reasonable belief in facts or circumstances which, if true, would in law constitute a violation.
- (b) If the commissioner or an agency manager determines there are reasonable grounds to believe a violation may have occurred, an investigation will be initiated. The individual assigned to investigate the complaint shall gather all relevant facts in an objective, impartial and unbiased manner. The investigative report must contain all facts discovered during the investigation, including facts which may be exculpatory or mitigating.
- (c) The individual assigned to investigate the complaint will promptly notify the commissioner or an agency manager if a licensee fails or refuses to cooperate in an investigation.
- (d) An investigative interview may be electronically recorded if the person to be interviewed consents to the recording and states such consent on the recording.
- (e) The individual assigned to investigate the complaint may not communicate with a licensee or a member of the public about the findings of the investigation, whether a violation may have occurred based on the facts, or whether the agency will initiate administrative action against a licensee.
- (f) Individuals assigned to investigate complaints shall not solicit complaints against any licensee.
- (g) The scope of an investigation shall be limited to the conduct or transaction(s) that formed the basis initiating the investigation. However, if there are reasonable grounds to believe that additional violations may have occurred that would result in reprimand, suspension, revocation or license denial, the commissioner or an agency manager may

expand the scope of the investigation or authorize additional investigations.

(2) The investigation report shall be written in an objective manner and may not contain any conclusions about whether a violation has occurred or any recommendation regarding discipline.

(3) An agency manager will review the investigation report and file and determine whether the evidence supports charging a person under investigation with a violation of ORS 696.007 to 696.995, or any rule promulgated thereunder. The agency shall not assert, propose to stipulate to, or issue a contested case notice alleging a violation of said statutes and rules without reasonable grounds as defined in section (1)(a) of this rule.

Stat. Auth.: ORS 696.385 & ORS 183.335

Stats. Implemented: ORS 696.396