

ORAP COMMITTEE 2026
August 20 Materials -- ADDENDUM

AMENDING RULE(S): ORAP 5.50, Appendix 5.50

FROM: Proposal #15 Workgroup: Judge Kamins, Ernest Lannet,
Ryan Kahn, Julie A. Smith, Travis Eiva

[From SP Armitage:] In response to the public comments from Youth, Rights & Justice, the workgroup has suggested the attached additional changes to ORAP 5.50 and Appendix 5.50. Please note that everything shown in track changes is new; the prior suggested amendments ORAP 5.50 have already been incorporated.

Rule 5.50
THE EXCERPT OF RECORD

(1) Except in the case of a self-represented party, the appellant must file an excerpt of record at the same time as the opening brief.¹ The parties to an appeal are encouraged to confer regarding the content of the excerpt of record, including whether to file a joint excerpt of record to be filed with the opening brief.

(2) The excerpt of record must contain:²

(a) The judgment or order on appeal or judicial review.

(b) The portion of the record containing the legal, procedural, factual, or other ruling being appealed, reviewed, or collaterally challenged, whether oral or written, final or interim. If the decision was an oral one, the relevant transcript pages must be included.

(c) All parts of the trial court record ~~relevant a party believes important~~ for deciding ~~the an issue on~~ appeal, ~~including and~~

~~(i) — parts of the trial court record cited or referenced in the briefs, and~~

~~(ii) —~~ any transcript pages a party believes to be central to deciding the an issue on appeal.³

(d) If, and only if, there is a reasonable likelihood that preservation of error will be disputed in the case, the portions of memoranda and the transcript pages pertinent to the issue of preservation presented by the case. Legal memoranda should not be otherwise included in the excerpts of record.

(e) A copy of the eCourt Case Information register of actions, if the case arose in an Oregon circuit court.

(f) In criminal cases in which the defendant appealed after entering a conditional plea of guilty or no contest under ORS 135.335(3), the defendant must include in the excerpt of record the writing in which the defendant reserved for review on appeal the trial court's adverse determination of a pretrial motion.

(3) A respondent may file, with the respondent's brief, and an appellant may file, with the reply brief, a supplemental excerpt of record containing those materials required by subsection (2) of this rule that were omitted from the excerpt of record.

(4) The excerpt of record and any supplemental excerpt of record must be in the following form:

(a) All documents or parts of documents must be copies of documents included in the record, rather than summarized or paraphrased. Omissions, if not apparent, must be noted. No matter may be omitted if to do so would change the meaning of the matter included.

(b) The excerpt of record and any supplemental excerpt of record must be filed as a separate filing.

(c) Contents must be set forth in chronological order, except that the decisions being appealed must be the first document(s) in the excerpt of record and the OECI case register must be the last document in the excerpt of record. The excerpt must be consecutively paginated, with the caption page paginated as ER-1 and every subsequent page shall be consecutively numbered, including but not limited to the table of contents of the excerpt, caption pages and blank pages, such that the page numbering is consistent with the PDF numbering. The excerpt must begin with an index organized in chronological order, describing each item and identifying where the item may be found in the trial court or agency record, and the page where the item may be found in the excerpt. The index may include bookmarks as described in ORAP 16.50. A supplemental excerpt of record must substantially conform to the same requirements, except that a supplemental excerpt must be paginated using "SER," *e.g.*, SER-1, SER-2, SER-3.

(d) The materials included must be reproduced on 8-1/2 x 11 inch white paper by any duplicating or copying process that produces a clear, black, legible image.

(e) The excerpt of record must comply with the applicable requirements of ORAP 5.05.

(5) Self-represented parties are not required to file an excerpt of record or a supplemental excerpt of record. If a self-represented party files an excerpt of record or a supplemental excerpt of record, it must contain only those documents specified in ORAP 5.50(2)(a) and (b), must contain no other documents, and must otherwise comply with this rule.

(6) The appellate court may strike any excerpt of record or supplemental excerpt of record that does not substantially comply with the requirements of this rule.

¹ Any brief containing an excerpt of record filed through the eFiling system that exceeds 25 megabytes must be filed in compliance with ORAP 16.15(1).

² For other requirements for the excerpt of record in Land Use Board of Appeals cases, *see* ORAP 4.67.

³ *See* Appendix 5.50, which sets forth examples of documents that a party should consider including in the excerpt of record depending on the nature of the issues raised in the briefs.

APPENDIX 5.50

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Illustration for ORAP 5.50 EXCERPT OF RECORD

In civil cases, the excerpt of record properly might contain:

(1) When a claim or defense is an issue on appeal, the specific parts of the complaint, petition, answer or other pleading that are essential to consideration of the issue on appeal; otherwise, as much of the complaint, petition, answer or other pleading as is essential-important to frame the issue on appeal;

~~(2) When an issue on appeal is based on the grant or denial of a written motion, the motion, the response to the motion, those specific parts of any affidavits, exhibits or similar attachments submitted in support of or in opposition to the motion that are essential to consideration of the issue on appeal, and the written order ruling on the motion;~~

(23) Any opinion, findings of fact or conclusions of law relating to an issue on appeal;

(34) When an issue on appeal is based on a ruling, order, finding of fact or conclusion of law that was delivered orally, that specific part of the transcript containing the ruling, order, finding of fact, or conclusion, together with any discussion of the matter by the judge, counsel or a party;

(45) When an issue on appeal is based on a challenge to the admission or exclusion of evidence, the specific part of the transcript containing any discussion involving the evidence by the court, counsel, or a party, and any offer of proof, ruling or order, and objection;

(56) When an issue on appeal is based on a written exhibit, including an affidavit, the specific part of the exhibit essential to consideration of an issue on appeal;

(67) When an issue on appeal is based on a jury instruction given or refused, the jury instruction and the specific part of the transcript containing any discussion of the jury instruction by the court, counsel or a party, and any ruling and objection;

(78) When an issue on appeal is based on the verdict, the written verdict, if any, or, if the verdict was rendered orally, the specific part of the transcript containing the verdict.