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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

ODE 38-2020

CHAPTER 581
OREGON DEPARTMENT OF EDUCATION

FILED

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ARCHIVES DIVISION
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& LEGISLATIVE COUNSEL

FILING CAPTION: Rules to Implement RSSL Guidance and EO 20-29

EFFECTIVE DATE: 09/18/2020 THROUGH 03/16/2021

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NEED FOR THE RULE(S):

On June 24, 2020, Governor Brown issued Executive Order 20-29. The order directs the Oregon Department of Education and the Oregon Health Authority to publish guidance relating to the conduct of in-person instructional activities at public schools and private schools. The order also directs the State Board of Education, in collaboration with the Department, to "engage in any temporary rulemaking necessary to facilitate the directives in [E.O. 20-29], and the ability of public schools to respond to the ongoing emergency."

JUSTIFICATION OF TEMPORARY FILING:

With Executive Order 20-29, Governor Brown ordered the Oregon Department of Education and the Oregon Health Authority to publish guidance relating to the conduct of in-person instructional activities at public schools and private schools. Failure to adopt temporary rules in accordance with the E.O. will delay the implementation of the Ready School, Safe Learners guidance. Failure to immediately take rulemaking action would negatively impact school districts and public charter schools in providing instruction and school based services. These proposed rules will give the Department the necessary authority to fully implement the Ready School, Safe Learners guidance and provide needed flexibility to school districts and public charter schools in comprehensive distance learning.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

All relevant documents are available under the State Board of Education's website, Boardbook Premier, in the September 2020 meeting.

RULES:

581-022-0104, 581-023-0006, 581-023-0040

ADOPT: 581-022-0104

RULE TITLE: State Standards for the 2020-21 School Year

RULE SUMMARY: This proposed temporary rule is necessary to implement the Ready Schools, Safe Learners guidance and to provide flexibility for school districts in comprehensive distance learning. The rule specifies that for the 2020-21

school year, all division 22 standards are in effect unless waived by this rule. Lastly, the rule makes a modification to the instructional time rule.

RULE TEXT:

(1) Applicability.

(a) This rule sets forth the state standards for the 2020-2021 school year.

(b) The definitions set forth in OAR 581-022-0102, 581-022-2010(1), 581-022-2015(1), and 581-022-2020(1) apply to this rule.

(2) State Standards for the 2020-21 School Year. All Division 22 standards are in effect for the 2020-21 school year except as specifically waived or modified by this rule.

(3) Waivers. The following standards are waived for the 2020-21 school year:

(a) Diploma. School districts and public charter schools must comply with all requirements set out in OAR 581-022-2000 except sections (7), (8), (9), (10), and (11).

(b) Modified Diploma. School districts and public charter schools must comply with all requirements set out in OAR 581-022-2010 except sections (9) and (12).

(c) Health Services. School districts and public charter schools must comply with all requirements set out in OAR 581-022-2220 except section (1)(f).

(d) Physical Education Requirements. School districts and public charter schools must comply with the requirement in OAR 581-022-2263(2)(a) to ensure that each public school student in kindergarten through grade eight will receive physical education throughout the entire school year. All other requirements in OAR 581-022-2263 are waived for the 2020-21 school year.

(3) Ready School, Safe Learners Guidance. School districts and public charter schools must comply with the Ready School, Safe Learners Guidance issued by the Oregon Department of Education.

(4) Instructional Time. School districts and public charter schools may include in the calculation of required instructional time an additional 60 hours for staff professional development and an additional 60 hours for parent teacher communication to facilitate student learning, including parent teacher conferences, training, and support for distance learning. This allowance is in addition to the 30 hours allowed under OAR 581-022-2320(6)(d)(and (e) respectively.

STATUTORY/OTHER AUTHORITY: ORS 326.051

STATUTES/OTHER IMPLEMENTED: ORS 326.051

RULE TITLE: Student Accounting Records and State Reporting

RULE SUMMARY: This proposed temporary rule is necessary to implement the Ready School, Safe Learners guidance and to provide flexibility for school districts in comprehensive distance learning. For the 2020-21 school year, the Department recommends temporarily suspending the "10-day drop" with the expectation that a student will only be unenrolled when a school or district has received notice that they've been enrolled in another setting.

RULE TEXT:

(1) The following definitions and abbreviations apply to this rule:

- (a) "Active roll" means the list of students enrolled and attending the school or program during the current school year;
- (b) "ADA" means average daily attendance;
- (c) "ADM" means average daily membership;
- (d) "Alternative program" means any private or public alternative program providing instruction or instruction combined with counseling under ORS 336.635;
- (e) "Class" means a separate group of students under the direction of a teacher.
- (f) "Day in session" means a scheduled day of instruction during which students are under the guidance and direction of teachers;
- (g) "Department" means the Oregon Department of Education;
- (h) "Full school day" means the length of time a school or program is normally in session during the day in compliance with OAR 581-022-2320;
- (i) "Full-day kindergarten program" means a program providing kindergarten that meets the standards and minimum number of hours of instruction set forth in OAR 581-022-2320 and is in session during the day in compliance with OAR 581-022-2320;
- (j) "FTE" means full-time equivalency;
- (k) "Half-day kindergarten program" means a program providing kindergarten that complies with the minimum hours of instruction in OAR 581-022-2320(5).
- (l) "Inactive roll" means the list of students enrolled for purposes of credit but not attending the school or program. Includes students attending private alternative or Job Corps programs, students withdrawn after ten consecutive days' absence and students served on a tutorial basis outside the classroom;
- (m) "Instruction" for purposes of reimbursement of alternative programs means all activities that are approved by the student's resident school district, consistent with Oregon's academic and career related learning standards, and designed to lead to student achievement of those standards, including participation in Oregon state assessment, where applicable.
- (n) "Instructional unit" means a school or other organizational arrangement which provides instruction of a given type or types;
- (o) "Intermediate group" means instruction provided to a student receiving a comprehensive instructional program consistent with OAR 581-022-1210 and individually placed by a school district in an alternative program approved by a school district to a class of six to 15 students;
- (p) "Large group" means instruction consistent with OAR 581-022-2030 and provided to a student individually placed by a school district in an alternative program approved by a school district to a class of 16 or more students;
- (q) "Nonpublic school" means instruction provided by an individual or institution listed in ORS 339.030 as exemptions to the compulsory attendance requirements set out in ORS 339.010.
- (r) "Regular school program" means that which is offered to comply with the standards adopted by the State Board of Education and compulsory school attendance law. This does not include summer school, adult education, or pre-kindergarten programs;
- (s) "Small group" means instruction provided to a student receiving a comprehensive instructional program consistent with OAR 581-022-2030 and individually placed by a school district in an alternative program approved by the school

district to a class of two to five students;

(t) "Superintendent" means the State Superintendent of Public Instruction;

(u)(A) "Teacher" means:

(i) An appropriately licensed staff member with the responsibilities of a teacher in OAR 584-036-0011 or with the responsibilities of teacher described in the definition of a teacher in ORS 342.120; and

(ii) For purposes of private alternative education programs, an appropriately licensed or unlicensed staff member with the responsibilities of a teacher in OAR 584-036-0011 or with the responsibilities of teacher described in the definition of a teacher in ORS 342.120.

(B) "Teacher" does not include an "Educational Assistant" as defined by ORS 342.120 and OAR 581-037-0005 or "Instructional Assistant" described in 584-036-0011.

(v) "Tutorial" means instruction provided to a student receiving a comprehensive instructional program consistent with OAR 581-022-2030 and individually placed by a school district in an alternative program approved by a school district to one student.

(2) Instructions pertaining to the maintenance of student accounting records and state reporting shall be published by the Department.

(3) Each school district and ESD shall:

(a) Permanently maintain accounting records of student enrollment, attendance, membership, resident/nonresident status, and such other student information as may be required, for each student enrolled in regular school programs operating during the regular school year. Such records shall utilize uniform definitions of each student measure as stated in this rule;

(b) Designate the residency for school purposes, subject to the provisions of ORS 327.006 and 339.133 of each student enrolled in the district;

(c) Have in operation an attendance accounting system which is adequately controlled and enables the district's chief administrator to certify in writing the accuracy of reported data;

(d) Report enrollment, attendance, membership, and such other information as the Superintendent may require, within 15 days of the end of the collection periods. Reports for the period ending the first school day in October shall be submitted no later than November 15.

(e) Retain daily source records of enrollment, membership and attendance for a period of no less than two years. Records, whether paper or electronic, must be maintained in an accessible format.

(4) Students shall be entered and withdrawn from the district roll as follows:

(a) A student shall be entered on the district active roll on the first day of the student's actual attendance. A student with an excused absence of less than ten school days at the beginning of the school year may be counted in membership prior to the first day of attendance if the status has been verified by contact with the parent or guardian. A student participating in the program of more than one instructional unit shall be entered on the active roll of that instructional unit in which 50 percent or more of the student's time is scheduled and the student shall not be entered on the roll of other instructional units;

(b) A student whose withdrawal status can be determined within ten school days of their first day of absence shall be marked as a withdrawal on the school day following that determination. A student must be withdrawn from the active roll on the day following the tenth consecutive full school day of absence but may be retained on the inactive roll at the district's option. A student must be present for at least one-half day in order to restart the count of consecutive days' absence. Under no circumstances shall a student who is absent for the first ten days at the beginning of the school year be counted in membership prior to the first day of school attendance. A student whose attendance is reported as hours of instruction must be withdrawn from the active roll on the day following the tenth consecutive day of absence from the program in which they are enrolled. A student must be present for at least one hour of instruction in order to restart the count of consecutive days' absence. A student who is enrolled in dual programs and reported as both days present/days absent and hours of instruction must be withdrawn according to the instructional unit in which fifty percent or more of the student's time is scheduled. Under no circumstance shall a student who is absent for the first ten

days at the beginning of the school year be counted in membership prior to the first day of school attendance.

(c) Notwithstanding anything else in this rule, subsection (4)(b) of this rule is suspended for school districts, public charter schools, and Oregon School for the Deaf for the 2020-2021 school year or until the suspension is removed by order of the Director of the Oregon Department of Education. This provision does not apply to the Juvenile Detention Education Program or the Youth Corrections Education Program.

(5) Membership and attendance accounting in instructional units scheduled to operate a full school day shall be recorded as follows:

(a) A full-time equivalency (FTE) for each student on the active roll shall be determined. Students participating in more than one-half of the full-day program shall be given an FTE of 1.0. Students participating in one-half or less of the full-day program shall be given an FTE of .5. The FTE computation of students placed in community college programs by the local school district shall include time spent in the community college program:

(A) Districts shall determine the FTE for kindergarten students based on whether the district provides a full-day kindergarten program or half-day kindergarten program as follows:

(i) For students in full-day kindergarten programs, districts shall give students 1.0 FTE for students participating in more than one-half of the full-day kindergarten program. Districts shall assign an FTE of 0.5 for students participating in one-half or less of the full-day kindergarten program;

(ii) Students in half-day kindergarten programs shall be assigned an FTE of 1.0. The Department shall proportionally reduce the total days membership of these students reflecting the permissible percentage as stated in statute;

(B) Students participating in district supervised work-study programs may be credited as 1.0 FTE. If a student is released for work during school hours and the district assumes no supervisory responsibility for the time involved, that time shall not be counted as participation in the full-day program when determining the student's FTE.

(b) Membership of each student for the period shall be computed as follows: student FTE times days present plus student FTE times days absent equals total days membership of the student. The day upon which a student is marked as a withdrawal shall not be counted as a day of membership. A student not scheduled to attend daily shall be marked present or absent only on the days the student is scheduled to attend;

(c) Total days membership of the instructional unit shall be the total of days membership of all students on the active roll of the instructional unit as computed in subsection (b) of this section. The computation of total days membership of the instructional unit shall yield subtotals indicating grade placement and resident/nonresident status of student membership;

(d) The Department shall compute the ADM and ADA of resident students, nonresident students, and attending students for each instructional unit reporting and derive totals of such data for each local school district in the state, subject to the following procedures:

(A) ADM is the total days membership of an instructional unit during a specific reporting period divided by the number of days the instructional unit was in session during that reporting period. The ADM of groups of instructional units having varying lengths of terms shall be the sum of the ADMs obtained for the individual instructional units. If a district school board adopts a class schedule that operates throughout the year under the provisions of ORS 336.012 for all or any instructional units in the district, the computation shall be made so that the resulting ADM will not be higher or lower than if the local board had not adopted such a schedule;

(B) ADA is the total days attendance of an instructional unit during a specific reporting period divided by the number of days the instructional unit was in session during that reporting period. The ADA of groups of instructional units having varying lengths of terms shall be the sum of the ADAs obtained for the individual instructional units. If a district school board adopts a class schedule that operates throughout the year under the provisions of ORS 336.012 for all or any instructional units in the district, the computation shall be made so that the resulting ADA will not be higher or lower than if the local board had not adopted such a schedule.

(6) Students enrolled in programs operating less than the full school day and nonpublic school students attending public schools part time shall be accounted for as follows:

(a) The ADM of students enrolled in schools under provisions of ORS 336.135 and students enrolled in nonpublic

- schools or taught by private teacher or parent under ORS 339.035 shall be computed by multiplying total hours of instruction given all students during the reporting period by .167 and dividing the product by 73 for the July 1 to December 31 cumulative report and by 175 for the June 30 annual report;
- (b) The ADM of students receiving tutorial instruction provided by licensed district staff shall be computed by dividing total number of hours of tutorial instruction given (not to exceed 5 hours per week for a single student) by 73 for the July 1 to December 31 cumulative report and by 175 for the June 30 annual report;
- (c) The computation of ADM for each less than full-time program listed shall yield subtotals for resident and nonresident students;
- (d) The ADM of students enrolled in less than full-time programs shall be reported to the Department for the period ending December 31 and for the year ending June 30.
- (e) No more than five day's membership may be claimed for any student enrolled in any combination of programs during a one-week period.
- (f) The Department will proportionally reduce the ADM of kindergarteners enrolled in half-day programs to reflect the permissible percentage as stated in statute.
- (7) A student enrolled in a public school district and receiving instruction in the district's comprehensive planned K-12 curriculum consistent with OAR 581-022-1210 and who is individually placed by the school district in an alternative education program under ORS 336.635 shall be accounted for as follows:
- (a) The ADM of students enrolled in alternative programs scheduled to operate a full school day may be computed either on the basis of membership (section (5) of this rule) or on the basis of actual attendance (section (7)(b) of this rule);
- (b) Equivalent ADM of students enrolled in alternative programs scheduled to operate less than full time shall be computed as follows:
- (A) Equivalent ADM of students enrolled in large group instruction shall be computed by multiplying total hours of instruction given all students during the reporting period by a factor of .167 and dividing the product by 73 for the July 1 to December 31 period cumulative report and by 175 for the June 30 annual report;
- (B) Equivalent ADM of students enrolled in intermediate group instruction shall be computed by multiplying the total hours of instruction given all students during the reporting period by a factor of .222 and dividing the product by 73 for the July 1 to December 31 period cumulative report and by 175 for the June 30 annual report;
- (C) Equivalent ADM of students enrolled in small group instruction shall be computed by multiplying the total hours of instruction by a factor of .333 and dividing the product by 73 for the July 1 to December 31 period cumulative report and by 175 for the June 30 annual report;
- (D) Equivalent ADM of students receiving individual instruction shall be computed by multiplying the total number of hours of tutorial instruction given by a factor of 1.0 and dividing the product by 73 for the July 1 to December 31 period cumulative report and by 175 for the June 30 annual report;
- (E) Case management services (not limited to student contact) may be counted as large group instruction and constitute up to ten percent of equivalent ADM if specifically authorized by contract with the resident school district;
- (F) Documented time in supervised work experience programs, supervised community service activities and supervised independent study, if performed as a part of the instructional programs designed to fulfill the student's educational goals, may be counted as large group instruction;
- (G) Over any 20-day period, no more than 20 equivalent membership days may be claimed for any student receiving a combination of instructional services under paragraph (7)(b)(A), (B), (C) or (D) of this rule. Equivalent membership days for any student is equal to the hours of instruction given multiplied by the factor appropriate for the size of the instructional group.
- (c) Students attending alternative programs part day and attending the home high school part day shall be reported by the home high school only, taking account of the total time spent in the alternative program and the home high school when determining FTE under section (5) of this rule;
- (d) Students attending private alternative programs only, shall not be reported by the instructional unit placing the

student for purposes of reporting membership or attendance.

(8) Each private alternative program shall:

(a) Maintain accounting records of student attendance, size of group attended, resident school district and such other student information as may be required by the contracting school district for each student attending the private alternative program;

(b) Report student name, dates served and hours served by group size to resident school district no less than twice yearly, once for the July 1 through December 31 period and an annual report ten days after the close of the school year; and

(c) Retain student attendance records for a period of no less than two years.

(9) Students in the following programs are not eligible to be counted in the resident average daily membership for purposes of ORS 327.013(7)(a):

(a) Students enrolled in special education programs under ORS 343.261, 343.961, and 346.010.

(b) Children enrolled in early intervention and early childhood special education programs under ORS 343.533;

(c) Students not receiving a free public education;

(d) Students in summer school programs;

(e) Students in adult education classes.

(10) Rules governing the reporting of students identified as dropouts are contained in the most recent edition of the Oregon Dropout Reporting Manual, published by the Oregon Department Education. The State Board of Education adopts the procedures in this publication to govern the reporting of dropouts by school districts.

(11) For the purposes of dropout reporting, the following shall apply:

(a) A student is considered enrolled when the student is present at school and attends more than half of a school day;

(b) Acceptable alternative programs are those programs providing activities meeting OAR 581-023-0008 and provided by public school districts, ESDs, community colleges or private alternative programs registered with the Oregon Department of Education under OAR 581-021-0072;

(c) An absence, explained or unexplained becomes a withdrawal after an absence of 10 consecutive days. A student must be present for at least one-half day in order to restart the count of consecutive days absence;

(d) Standards for excused absences must be developed by local districts. Policies shall clearly define excused and unexcused absences and ensure the health and safety of the child. Parents shall be informed of the policies at enrollment. Policy should address the documentation required.

(12) The Superintendent shall prescribe the applicable student accounting procedures for any programs or specific situations not covered by the provisions of this rule.

STATUTORY/OTHER AUTHORITY: ORS 326.310, 327.125

STATUTES/OTHER IMPLEMENTED: ORS 327

RULE TITLE: Approved Transportation Costs for Payments from the State School Fund

RULE SUMMARY: The proposed revision will ensure that the funds sponsors received from the ODE grants under ORS 327.527 and ORS 327.540 will not reduce the amount available to districts from the Transportation Grant fund. This temporary rule will allow school districts to charge costs of bus drivers to the Transportation Grant (Grant) in the State School Fund for the 2020-21 school year, where some costs would not typically be included for reimbursement from the Grant.

RULE TEXT:

(1) Definitions for the purpose of this rule:

- (a) "Elementary School Student" means, notwithstanding any other OAR or statute, pupils attending a school offering only an elementary curriculum, any combination of grades K through 8;
- (b) "Secondary School Student" means, notwithstanding any other OAR or statute, pupils attending a school offering any secondary curriculum for grades 9, 10, 11, or 12. Additionally, all students attending a school designated by the local school board through board action as a junior high school or middle school may be considered secondary students;
- (c) "Local School Board" means, notwithstanding any other OAR or statute, the local school board for the district in which the student's legal residence is physically located. Local school boards are not required to provide transportation for students who have requested and received approval to attend a school other than that designated by the local school board for students living in their specified attendance area;
- (d) "Manufacturer's Rated Capacity" means the number of students to be used in the calculations specified in paragraph (5)(n)(B) of this rule and described below:
 - (A) Buses transporting only elementary students will have a passenger capacity as stated on the manufacturer's identification plate;
 - (B) Buses transporting only high school students, grades 9 through 12 will have a passenger capacity based on two students for each 39 inch bus seat;
 - (C) Buses transporting mixed groups from grades K–12 (in any combination) or groups of only junior high or middle school students will have a passenger capacity based on 2.5 students for each 39-inch bus seat.

EXAMPLE: A bus with a manufacturer's passenger capacity stated on the identification plate of 72 would have the following ratings: elementary — 72, high school only — 48, mixed groups — 60, middle school and junior high school — 60.

- (e) "Mile(s) from School" means the distance a student lives from school, measured from the closest, reasonable, and prudent point between the school property identified by the local board for that pupil's attendance and the property where the pupil lives. The distance will be measured over the shortest practicable route on maintained public roadways or over existing pedestrian facilities or pedestrian facilities capable of meeting the requirements listed in ORS 332.405(4);
- (f) "Patron" means any individual, organization, or entity that is able to use student transportation services except for charter schools (as defined in ORS 338) or a public agency (described in ORS 339.133(4), ORS 327.527, ORS 327.540 or ORS 327.390) if the school or agency reimburses school districts up to one hundred percent (100%) of incurred transportation costs pursuant to ORS 338.145, 339.133(4), ORS 327.527, ORS 327.540 or 327.390.
- (g) "Supplemental Plan" means a plan adopted by local school board resolution identifying groups or categories of students who live within the 1 and 1.5 mile limitations and require transportation based on health or safety reasons, including special education. Supplemental plan approvals may be ordered by the State Board of Education or its designated representatives. The State Board shall have the right of final review of any actions regarding supplemental plans. Appeals will be directed to the State Board for final consideration. The Plan must include the following:
 - (A) The approximate number of students to be transported based on the plan;

- (B) The health or safety reasons cited for providing transportation;
 - (C) The local board resolution specifying the supplemental plan as submitted; and
 - (D) Any additional information or documentation supporting the supplemental plan deemed appropriate locally.
- (2) Approved transportation costs shall include those costs incurred in transporting pupils to and from instructional programs during the regularly scheduled school term within the limitations specified by ORS 327.006 and 327.033. Approved transportation costs may include costs incurred in transporting students participating in extended school year programs eligible for funding from the State School Fund.
- (3) Approved transportation costs shall include those district expenditures associated with:
- (a) Home-to-school transportation of elementary school pupils who live at least one mile from school;
 - (b) Home-to-school transportation of secondary school pupils who live at least one and one-half miles from school;
 - (c) Transportation of pupils between educational facilities either within or across district boundaries, if the facilities are used as part of the regularly-scheduled instructional program approved by the Board;
 - (d) Transportation of pupils for in-state field trips when such represents an extension of classroom activities for instructional purposes, and shall include out-of-state destinations within 100 miles of the Oregon border;
 - (e) Transportation of pupils home to school for whom a supplemental plan has been approved by the State Board of Education in addressing safety, health, and special education needs;
 - (f) Transportation of preschool children in Early Childhood Special Education Services having an Individual Family Service Plan requiring transportation and preschool children receiving Early Intervention Services under the authority of ORS 343.533.
- (g) School to home transportation following extended school day instructional programs for:
- (A) Elementary school pupils who live at least one mile from school;
 - (B) Secondary school pupils who live at least one and one-half miles from school.
- (h) For the 2020-21 school year, maintaining an adequate level of pupil transportation services while school districts are administering Comprehensive Distance Learning in response to the COVID-19 pandemic.
- (4) Approved transportation costs shall exclude those district expenditures associated with transportation for the following unless the school program is required under provisions of the Individuals with Disabilities Education Act, ORS 343.533 or 339.010 through 339.090 and 339.250:
- (a) Pupils living within the limits prescribed in ORS 327.006(2) for whom no supplemental plan has been approved by the State Board;
 - (b) Activity trips other than for instructional purposes;
 - (c) Athletic trips;
 - (d) School lunch purposes;
 - (e) Summer school;
 - (f) Adult education;
 - (g) Evening school;
 - (h) Preschool and/or nursery school;
 - (i) Board and room in lieu of transportation associated with field trips;
 - (j) Transportation facility and staff costs other than those directly related to approved pupil transportation activities.
- (5) The computation shall be made as follows:
- (a) Pupil Transportation Salaries;
 - (b) Pupil Transportation Supplies, Equipment, Repairs, and Maintenance;
 - (c) All contracted Transportation;
 - (d) Travel of Pupil Transportation Personnel;
 - (e) Employee Benefits on Pupil Transportation Salaries;
 - (f) Pupil Transportation Insurance;
 - (g) Payments in Lieu of Transportation;
 - (h) Other Expenses of Pupil Transportation;

- (i) Payments to Other Districts for Pupil Transportation;
- (j) Leases and Rentals;
- (k) Depreciation:
 - (A) Depreciation of Garage, but this shall not include land;
 - (B) Depreciation of Buses that are used at least 50% for reimbursable mileage.
 - (C) Shall include the costs to the district to retrofit, repower, or to replace as defined in ORS 468A.795, school buses for the purpose of reducing or eliminating diesel engine emissions. These costs:
 - (i) Shall not include the costs paid with moneys received from the state by a school district from the Clean Diesel Engine Fund that are described in 468A.801 (2)(a); and
 - (ii) Shall include costs to paid with moneys received from the state as allowed by the Environmental Mitigation Trust Agreement as defined in ORS 468A.801 (2)(c).
- (l) Total of subsections (5)(a) through (k) of this rule;
- (m) Deduct (if cost is included in detail above):
 - (A) Payments Received from Other Districts and from Patrons for reimbursable transportation;
 - (B) Non-reimbursable Transportation Costs:
 - (i) For 2017 – 18:
 - (I) Number of miles at \$2.52 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of greater than 20 persons including the driver, or
 - (II) Number of miles at \$1.27 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of 20 or less including the driver.
 - (ii) For 2018 – 19:
 - (I) Number of miles at \$2.62 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of greater than 20 persons including the driver, or
 - (II) Number of miles at \$1.31 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of 20 or less including the driver.
 - (iii) For 2019 – 20:
 - (I) Number of miles at \$2.66 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of greater than 20 persons including the driver, or
 - (II) Number of miles at \$1.33 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of 20 or less including the driver.
 - (iv) For 2020 – 21:
 - (I) Number of miles at \$2.70 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of greater than 20 persons including the driver, or
 - (II) Number of miles at \$1.36 per mile for all school buses and school activity vehicles having a manufacturers' designed passenger capacity of 20 or less including the driver.
 - (v)(I) Those local school board certified marginal costs attributable to services provided to students who are not eligible for home-to-school transportation under section 3, calculated and documented as follows: Documentation maintained by local district shall include: bus and route identification, school(s) being served, number of eligible students on board, number of ineligible students on board;
 - (II) Calculation of marginal costs shall be as follows: District Cost Per Mile of bus operation divided by the total number of students transported on each bus to derive an average cost per student. The cost per student multiplied by the number of ineligible students and the number of miles transported provides the amount for deduction. Example: Cost per student = district cost per bus mile - number of students on bus; Total Deduction = cost per student x ineligible students x number of miles transported.
 - (III) No deduction will be made for transportation inside prescribed limits if the local board certifies student demographics would require student bus rides to or from school of more than one hour if the bus is routed in a manner making it accessible to the number of eligible students living outside the prescribed mileage limit equal to 130 percent

of the bus manufacturer's rated capacity; or

(IV) The local school board certifies that buses are routed in a manner to serve at least the number of eligible students living outside the prescribed mileage limits equal to 130 percent of the bus manufacturer's rated passenger capacity; and

(V) In either of the aforementioned situations, no additional costs have been incurred by the district for the identified service.

(C) State and Federal Receipts for Transportation, except those apportioned under ORS 327.006 or third party Medicaid payments for transportation, if used to support expenditures in subsections (5)(a) through (l) of this rule;

(D) Rental or Lease Payments from Private Contractors;

(E) The percentage of transportation facility depreciation commensurate with the percentage of the total district fleet value based upon purchase price (see subsection (6)(k) of this rule) represented by non-pupil transportation equipment. Examples of nonpupil transportation equipment would include the following: lawnmowers, tractors, backhoes, trucks, pickups, cars, trailers, snow blowers, etc.

(n) Total Deductions ((5)(m)(A)+(m)(B)+(m)(C)+(m)(D)+ (m)(E));

(o) Approved Cost ((5)(l) minus (5)(n)).

(6) In the above computation, the following definitions apply:

(a) Pupil Transportation Salaries. Salaries and wages paid school bus drivers, assistants to driver, and that portion of salaries paid mechanics and other bus maintenance employees, supervisors of transportation, secretarial and clerical assistants, and persons assigned transportation oversight and coordination responsibilities attributable to the transportation program and documented through position descriptions and payroll records. No school district General Administration salaries may be included in this area;

(b) Pupil Transportation Supplies, Equipment, Repairs, and Maintenance. Costs of fuel, oil, lubricants, tires, tire repair, batteries, vehicle diagnosis and repair equipment identified as capital expenditures in the "Program Budget Manual," vehicle repair parts and supplies, repair of vehicles by other than the school district, garage maintenance and operation, and garage equipment repair and maintenance;

(c) All Contracted Transportation. Payments to parents and independent public or private contractors for transporting pupils from home to school, between educational facilities and for non-reimbursable activities enumerated in paragraph (6)(l)(B) of this rule; and fares to public carriers for transporting pupils from home to school and between educational facilities;

(A) If a district retains ownership of buses and garages and contracts for the operation of the transportation system with provision in the contract for lease or rental of the buses and garages, the contracted transportation cost shown should reflect the gross bid including the lease or rental payment. The lease or rental payment shall be deducted in the computation as reported in paragraph (5)(n)(D) of this rule;

(B) If the district retains ownership of buses and garages and participates in a transportation cooperative or consortium through an intergovernmental agreement, depreciation apportionment provided under ORS 327.033 will be disbursed directly to the district. No depreciation component is approved for cooperative-owned buses or garages.

(d) Travel of Pupil Transportation Personnel. Meals, lodging, mileage, per diem and other travel expenses of pupil transportation personnel, and private car mileage if paid to bus drivers for travel to and from the point where school bus is parked if other than the central garage. The same travel expenses plus tuition or registration are included for attendance at Department of Education sponsored or presented pupil transportation training programs and seminars;

(e) Employee Benefits on Pupil Transportation Salaries. The district's contributions for employee benefits including social security and retirement, employee health insurance, workers' compensation, and unemployment insurance;

(f) Pupil Transportation Insurance. Payments for public liability and property damage, medical care, collision, fire and theft, and insurance on garages and shops;

(g) Payments in Lieu of Transportation. Payments for pupils' board and room in lieu of transportation, consistent with ORS 332.405(2);

(h) Other Expenses of Pupil Transportation. District-paid fees for school bus drivers' physical examinations; interest on

bus or garage contracts payable including lease-purchase agreements if capitalized (see subsection (6)(k) of this rule);

(i) Payments to Other In-State or Out-of-State Districts for Transportation. Payments to other districts for approved pupil transportation costs;

(j) Leases and Rentals. Rental or lease payments for the use of land or buildings used for approved pupil transportation. Rental or lease payments for buses operated by district personnel for approved pupil transportation.

NOTE: Only those leases which do not contain an option to purchase or application of rentals to purchase should be included in subsection (5)(j) of this rule. See subsection (6)(k) of this rule as to the proper treatment of other lease-purchase agreements.

(k) Depreciation. For purposes of computing depreciation, capitalized cost is defined to include the unit cost of the asset, exclusive of interest, for such assets purchased outright, by conventional contract, or by lease-purchase agreement if such agreement contains any provision to acquire ownership at the end of the agreement by application of a portion of the rentals paid or a terminal payment. The computation of the capitalized cost and the depreciation shall be according to the following:

(A) Portions of Garages and Other Buildings Used for Approved Pupil Transportation:

- (i) Outright purchase (including purchase by conventional contract). For each outright purchase or purchase by conventional contract, each district shall report to the Oregon Department of Education, on the forms provided, the unit cost of the garage or other building purchased and the dollar amount of interest payments associated with such purchase. The purchase of land shall not be included in the Garage Depreciation. The capitalized value shall represent the unit cost, exclusive of interest. Depreciation shall be computed at an annual rate of four percent;
- (ii) Lease-purchase agreements. For each lease-purchase agreement, the district shall report to the Oregon Department of Education, on the forms provided, the dollar amount of the agreement, the interest payments contained in the agreement, and the schedule of such interest payments contained in the agreement. Land shall not be included in the lease purchase agreement for the purpose of reimbursement. Subsequent to July 1, 1975, the capitalized value shall represent the lease-purchase price less any interest payments contained in the agreement. Depreciation shall be computed at an annual rate of four percent.

(B) Buses and Other Vehicles Used for Approved Pupil Transportation:

- (i) Outright purchase (including purchase by conventional contract). For each outright purchase or purchase by conventional contract, each district shall report to the Oregon Department of Education, on the forms provided, the unit cost of the vehicle(s) purchased and the dollar amount of interest payments associated with such purchase. The capitalized value shall represent the unit cost, exclusive of interest. Depreciation shall be computed at an annual rate of ten percent;
- (ii) Lease-purchase agreements. For each lease-purchase agreement, the district shall report to the Oregon Department of Education, on the forms provided, the dollar amount of the agreement, any applicable trade-in value, the dollar amounts of interest payments contained in the agreement, and the schedule of such interest payments contained in the agreement. The capitalized value of the vehicles shall represent the lease-purchase price including the trade-in allowance less interest payments contained in the agreement. Depreciation shall be computed at an annual rate of ten percent;
- (iii) Lease agreements. If the district is leasing its buses under a lease agreement, the district shall report the annual lease cost. A lease agreement as used in this paragraph means an agreement whereby the lessor retains title to the buses being leased to the lessee school district and the title to the buses is never received by the lessee. Under such a lease agreement, the use of the buses by the lessee is limited by the term of the lease. If there is an auxiliary agreement either written or oral whereby at the end of the lease term, the title of the buses shall pass to the lessee school district, the agreement is not a lease agreement as described in this paragraph but is a lease-purchase agreement as outlined in subparagraph (ii) of this paragraph. The lease payment made by a school district obtaining the use of buses pursuant to a lease as defined in this paragraph shall be used in the computation of the reimbursement in place of the depreciation set

forth in subparagraphs (i) and (ii) of this paragraph.

(l) Deductions:

(A) Payments Received from Other Districts and from Patrons. Money received from other school districts, parents, guardians, or students for transportation if paid in support of expenditures listed in subsections (5)(a) through (l) of this rule;

(B) Nonreimbursable Transportation Costs. Actual bus mileage of excludable trips shall include the actual mileage in district owned or contracted buses for transportation for activity trips, athletic trips, school lunch purposes, summer school, adult education, evening school, nursery school, and any other nonreimbursable purposes. Such mileage shall be deducted at the rate indicated in subsection (5)(m)(B) of this rule. The rate of deduction may be reviewed periodically by the State Board of Education and adjusted accordingly;

(C) State and Federal Receipts for Transportation. All state and federal receipts for transportation expenditures, exclusive of funds apportioned under ORS 327.006 and 327.033, that have been included in subsection (5)(a) through (l) of this rule;

(D) Rental or Lease Payments from Private Contractors. Payments received from private contractors for the use of district owned buses and garages in the operation of the pupil transportation system by the private contractor. This item must be shown as Revenue Code 1930 in the school district audit and the gross payments to the contractor must be included in subsection (5)(c) of this rule.

(7) Each district shall maintain a record, by purpose, of total pupil transportation miles and shall submit a report of such to the Oregon Department of Education on the form provided. The accuracy of such records shall be certified by the district clerk.

(8) If an education service district offers a special service under the provisions of section (4) of ORS 334.175, including home-to-school transportation that would qualify for reimbursement under the provisions of ORS 327.006 if provided by a local school district, the following procedure in crediting the transportation expenditure to the local district may be employed:

(a) The education service district shall compute approved home-to-school transportation costs as provided in section (4) of this rule;

(b) The approved costs so determined shall be billed to and paid by each of the local school districts. The expenditure shall be accounted for by the local district as a transportation expenditure paid to another education agency;

(c) The audited district expenditure shall be recognized by the State Superintendent of Public Instruction in computing the local district's entitlement under ORS 327.006;

(d) If the education service district reimburses the local district the difference between that portion billed and that paid under ORS 327.006, such reimbursement — if derived from property tax sources by education service district resolution — shall not be deducted by the state in determining the local district's approved costs. The local district shall account for the education service district reimbursement as other general receipts are accounted for from the education service district.

(9) For purposes of computing board and room entitlement for a district operating a dormitory under provisions of ORS 327.006, the state assumes responsibility for its proportionate share of costs associated with the provision of food, facilities, staff, operation, and maintenance necessary to provide students with safe and healthy living conditions. The state does not assume responsibility for costs associated with recreation or entertainment of students. The approved cost against which the computation is made for state liability shall not exceed the limit stated in ORS 332.405. In addition, the state will assume its proportionate share of the cost of field trips as defined in subsection (3)(c) of this rule.

(10) The computation of approved expenditures for board and room entitlement shall be made as follows:

(a) Salaries;

(b) Operation:

(A) Utilities;

(B) Supplies;

(C) Other Operational Costs.

- (c) Maintenance:
 - (A) Upkeep;
 - (B) Replacement.
- (d) Fixed Charges:
 - (A) Employee Benefits;
 - (B) Other Fixed Charges.
- (e) Food;
- (f) Operation of Buses and Other Vehicles — Supplies, Repairs and Maintenance;
- (g) Depreciation:
 - (A) Dormitory;
 - (B) Buses and Other Vehicles.
- (h) Total Expenditures (Sum of subsections (10)(a) through (g) of this rule);
- (i) Deductions (subtract if cost is included in cost above):
 - (A) Payments Received from Other Districts and from Patrons;
 - (B) Nonreimbursable Transportation Costs as indicated in subsection (5)(m)(B) of this rule;
 - (C) State and Federal Receipts for Transportation, except those apportioned under ORS 327.006, 327.033, or third party Medicaid payments, if used to support expenditures in subsections (10)(a) through (g) of this rule;
 - (D) Federal School Lunch, Breakfast, and Milk Reimbursements;
 - (E) Sales of Food.
- (j) Total Deductions (sum (10)(i)(A) + (i)(B) + (i)(C) + (i)(D) + (i)(E));
- (k) Approved Cost ((10)(h) minus (10)(j) of this rule).
- (11) The items included in the board and room entitlement computation are defined as follows:
 - (a) Salaries. Salaries and wages paid dormitory personnel, including the dormitory manager, cooks, custodians, and other personnel directly concerned with operation of the dormitory, and that portion of salaries paid secretarial and clerical assistants and other personnel attributable to the dormitory program;
 - (b) Operation:
 - (A) Utilities. Heat for buildings, water and sewage, electricity, telephone, and other utilities necessary for the operation of the dormitory;
 - (B) Supplies. Custodial supplies, supplies for care of grounds, linens, and other supplies necessary for the operation of the dormitory including food services. Purchase of food is included in subsection (11)(e) of this rule;
 - (C) Other Operational Costs. Contracted custodial services, window washing, laundry or linen services, etc., necessary for the operation of the dormitory.
 - (c) Maintenance:
 - (A) Upkeep. Expenditures associated with maintaining the existing dormitory facilities in a safe, healthy, and efficient condition, including supplies and materials for upkeep of dormitory grounds and the dormitory building. Costs associated with maintenance of recreational or entertainment facilities are excluded;
 - (B) Replacement of Equipment. Expenditures associated with replacing equipment necessary to the safe, healthy, and efficient operation of the dormitory. Replacement of equipment used for recreational or entertainment purposes are excluded.
 - (d) Fixed Charges:
 - (A) Employee Benefits. Expenditures for dormitory employees' benefits including social security and retirement, employee health insurance, workers' compensation, and unemployment insurance;
 - (B) Other Fixed Charges. Expenditures for property insurance, liability insurance, rental of land and buildings for purposes associated with operation of the dormitory, and other fixed charges directly attributable to operation of the dormitory.
 - (e) Food. Expenditures for food necessary for the operation of the dormitory;
 - (f) Operation of Buses and Other Vehicles — Supplies, Repairs, and Maintenance. Expenditures for fuel, oil, lubricants,

tires, tire repair, batteries, vehicle repair parts and supplies, repair of vehicles by other than the school district, garage maintenance and operation, and garage equipment repair and maintenance necessary for the operation of buses utilized for purposes stated in section (3) of this rule and of other vehicles necessary for the operation of the dormitory;

(g) Depreciation:

(A) Dormitory. For purposes of computing dormitory depreciation, capitalized cost is defined as the unit cost of the asset (including the cost of original equipment), exclusive of interest, plus the cost of substantial improvements or remodeling. The purchase of land shall not be included. Costs associated with providing recreational or entertainment facilities are not included. Depreciation shall be computed at an annual rate of four percent;

(B) Buses and Other Vehicles. Depreciation for buses used for approved pupil transportation and that portion of other vehicles necessary for operation of the dormitory shall be computed in accordance with the formula and definition stated in paragraph (6)(k)(B) of this rule.

(h) Total. Sum of subsections (10)(a) through (g) of this rule;

(i) Deductions:

(A) Payments Received from Other Districts and from Patrons. Money received from other school districts, parents, guardians, or students for transportation or room and board if paid in support of expenditures listed in subsections (10)(a) through (f) of this rule;

(B) Nonreimbursable Transportation Costs. Costs for nonreimbursable transportation according to the formula and definition stated in paragraph (6)(l)(B) of this rule;

(C) State and Federal Receipts for Transportation. All state and federal receipts for transportation or room and board expenditures exclusive of funds apportioned under ORS 327.006 that have been included in subsections (10)(a) through (f) of this rule;

(D) Federal School Lunch, Breakfast, and Milk Reimbursements. All federal receipts for school lunch, breakfast, and milk expenditures that have been included in subsections (10)(a) through (f) of this rule;

(E) Sales of Food. Money received from teachers, students, or other individuals from food sales for which the expenditures are included in subsections (10)(a) through (f) of this rule.

(12) Such items of expenditure as may be questionable in applying the policy stated in this administrative rule shall be resolved by the State Superintendent of Public Instruction and such determination shall be final.

(13) Apportionment of the State School Fund for 2001–02 and subsequent years.

[Publications: Publications referenced are available from the agency.]

STATUTORY/OTHER AUTHORITY: ORS 327.013, 820.100 - 820.120

STATUTES/OTHER IMPLEMENTED: ORS 327.013, 820.100 - 820.120