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ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 950
OREGON HEALTH AUTHORITY
OFFICE OF EQUITY AND INCLUSION

FILED

04/30/2024 2:14 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Adds SOGI, Updates REALD Demographic Data Collection and Reporting (ORS 413.161)

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/22/2024 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT: Marjorie McGee

971-291-4342

OHAREALD.Questions@odhsoha.oregon.gov

Equity & Inclusion Division, OHA

421 SW Oak

Portland, OR 97204

Filed By:

Colleen Needham

Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 05/15/2024

TIME: 1:00 PM - 2:00 PM

OFFICER: Jonathan Salazar

REMOTE HEARING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-669-254-5252

SPECIAL INSTRUCTIONS:

The public hearing will be hosted in ZoomGov.

Meeting ID: 160 375 4094

Passcode: 066652

For people who speak a language other than English or people with disabilities we can provide free help. Please contact us by calling 971-291-4342 or by email at OHAREALD.Questions@odhsoha.oregon.gov at least two business days before the meeting. Note that ASL interpretation and Communication Access Realtime Translation (CART) / captioning in English will be available during the meeting.

NEED FOR THE RULE(S)

The catalyst for the update is House Bill 3159 (2021) (ORS 413.163), which required Sexual Orientation and Gender Identity (SOGI) to be added to the existing REALD (Race, Ethnicity, Language and Disability) OARs (950-030-0000 through 950-030-0200) which also needed updating. Communities most impacted by health inequities advocated for standardization of REALD & SOGI data collection so that so that OHA and ODHS can better identify and address social and health inequities.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

HB 3159 (2021) may be found here:

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB3159/Enrolled>

OHA SOGI Draft Data Collection Recommendations (November 2023) may be found here:

<https://www.oregon.gov/oha/EI/REALD%20Documents/DRAFT-SOGI-Recommendations.pdf>

Detailed Races and Ethnicities in the United States and Puerto Rico: 2020 Census (AOIC Counts) may be found here:

<https://www.census.gov/library/visualizations/interactive/detailed-race-ethnicities-2020-census.html>

Washington State (WAC 246-455-025) race and ethnicity requirements for hospitals may be found here:

<https://app.leg.wa.gov/wac/default.aspx?cite=246-455-025>

Revisions to OMB's Statistical Policy Directive No. 15: Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity may be found here: <https://www.federalregister.gov/documents/2024/03/29/2024-06469/revisions-to-ombs-statistical-policy-directive-no-15-standards-for-maintaining-collecting-and#:~:text=OMB%20initially%20developed%20SPD%2015,surveys%2C%20and%20Federal%20administrative%20forms.>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The number of racial and ethnic categories offered to respondents increased from 39 to 72 based on input from the RAC as well as recent changes in the OMB race and ethnicity data standards updated in March 2024. The greater granularity will help OHA and communities identify and begin to address health inequities within and between racial and ethnic groups. It also visualizes the diversity of the people of Oregon and allows individuals to see themselves in the data relating to programs and issues that affect them. Further, the other data elements in REALD & SOGI (e.g. language, disability, sexual orientation, gender identity) aids in understanding the diversity of people in Oregon by race and ethnicity alone and in combination with other identities and helps to create a more complete picture of who is most impacted by health inequities.

FISCAL AND ECONOMIC IMPACT:

Between Jan 9 and Jan 26, 2024, Rulemaking Advisory Committee (RAC) members completed a Fiscal Impact Survey, which represents about 15% of RAC members (from unduplicated organizations). 8% of RAC members (from unduplicated organizations) anticipated costs, which totaled \$1,559,975.

Small businesses that completed the survey did not provide specific fiscal impact estimates.

Among health systems, the costs ranged from \$47,000 to \$1,512,975. The breakdown of these cost estimates are as follows:

Electronic Health Record/Data System: \$50,000.

Equipment (other than EHR/data systems): \$1,000,000.

Staffing: \$487,305.

Training: \$22,670.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). Rules affect OHA and the Oregon Department of Human Services (ODHS) and any other state agencies desiring to implement the REALD & SOGI standards, which may incur staffing costs for implementation of the rule, technical assistance to businesses and creation of tools and templates. Additional fiscal impact for OHA and ODHS varies by type of database and data collection instrument. Below are a few estimates for specific system needs:

\$30,000 for 3 surveillance surveys developed with a vendor and done annually.

\$23,550 to update Oregon ACCESS.

\$250,000 to update ODHS data systems.

\$126,000 to update the ONE-IE system (Medicaid Eligibility).

\$30,000 to update REALD templates (20 languages).

\$75,000 to create and translate SOGI templates (20 languages).

OHA will be working with providers prior to when the registry goes live to ensure that the impact of these data collection standards are minimized on providers licensed by Twenty Boards (listed in ORS 413.164).

(2) Effect on Small Businesses:

(a) Estimate the number and type of small businesses subject to the rule(s); types of small businesses can include community-based organizations, small provider offices and long-term care and congregate living facilities. The effect on small businesses varies depending on whether they employ licensed providers as specified in ORS 413.164 once the REALD & SOGI registry goes live (estimated in 2027); additional rulemaking will specify the contexts and small business contexts in which the providers mentioned in 413.164 will be required to submit REALD & SOGI data to the registry. All small businesses and community-based organizations who are contractors or subcontractors of the OHA and/or ODHS and collect demographic data on behalf of OHA and/or ODHS are subject to the rules.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); Providers that are subject to the rule are required to collect and report the REALD & SOGI data (forms and electronic methods provided by OHA), those data may be stored electronically or via paper forms. Administrative costs could include staff training, time, and staff to input data electronically, and monitoring of updates to the forms and/or tools.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s). RAC members who gave cost estimates in the fiscal survey, small business representatives did not provide specific monetary estimates.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Members from CBOs and health systems with fewer than 50 employees were included in the Rulemaking Advisory Committee (RAC).

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

950-030-0000, 950-030-0010, 950-030-0020, 950-030-0030, 950-030-0040, 950-030-0050, 950-030-0060, 950-030-0200

AMEND: 950-030-0000

RULE SUMMARY: References to the Department of Human Services were removed. Removed reference to local, state, and national best practices. Added LGBTQIA2S+ communities to rule.

CHANGES TO RULE:

950-030-0000

Purpose ¶

These rules establish uniform standards and practices for the collection of data on race, ethnicity, preferred spoken or signed and preferred written language, and disability, ~~status by the Oregon Health Authority (Authority), Department of Human Services (Department), sexual orientation and gender identity by the Oregon Health Authority (OHA)~~ and others required by law or contract. Standardized data collection methodology will improve the ability of ~~the Authority, Department~~ OHA, community ~~stakehold~~ partners, elected officials, and other decision makers to recognize, address, target and eliminate inequities experienced by distinct tribal, racial, cultural, and linguistic communities, ~~and by~~ people with disabilities. ~~Based on local, state, and national best prac; and LGBTQIA2S+ communities, t.~~ These standards allow ~~the Authority and Department~~ OHA to meet federal reporting expectations; compare Oregon's progress with national trends; improve quality service delivery; and ensure equitable allocation of resources.

Statutory/Other Authority: ORS 413.161, ORS 413.042

Statutes/Other Implemented: ORS 413.161

AMEND: 950-030-0010

RULE SUMMARY: Added new definitions to align with updates in the other REALD and SOGI 950-030 rules. Eliminated "by contract, or otherwise required by law to collect REALD information in accordance with these rules, and includes but is not limited to the Authority, the Department, contractors and subcontractors of the Authority or the Department, and health care providers as that term is defined in Oregon Laws 2020, 1st Special Session, Chapter 12, Sections 40-41." from "Requestor" definition.

CHANGES TO RULE:

950-030-0010

Definitions ¶¶

The following definitions apply to OAR ~~943-070-0000 through 943-070-0070~~ 50, divisions 30 and 38:¶¶

~~(1) "Caregiver" means a person, paid or unpaid, related or unrelated, who acts on behalf of or cares for the individual.¶¶~~

~~(12) "Contractor" means a person or governmental entity who has a legal agreement with Oregon Healthe Authority or Department(OHA) to provide goods or services.¶¶~~

~~(23) "Demographic data" means collected information in accordance with these rules related to age, sex, gender, sexual orientation, race, ethnicity, preferred spoken, signed and written language, and disability status.~~

~~Demographic data under these rules will be collected for the purpose of better understanding populations who interact with the Authorinterpreter needs, English proficiency and disability.¶¶~~

~~(4) "Ethnicity" means a demographic designation for a group of people sharing a culture that includes race, religion, language, and other cultural characteristics including ancestry or country of origin.¶¶~~

~~(5) "Gender identity": ¶¶~~

~~(a) Means a demographic designation that describes a person's inner sense of being such as a girl, woman, female, boy, man, male, or something else, or having no gender.¶¶~~

~~(b) Does not mean a biological, anthropological or genetic distinction.¶¶~~

~~(6) "Gender modality" means how a person's gender identity stand the Departments in relation to their gender assigned at birth.¶¶~~

~~(37) "Ethnicity" means a demographic designation for a group of people sharing a culture that includes race, religion, language, and other cultural characteristics including ancestry or country of origin. Individual" means the person for which the demographic data is being collected.¶¶~~

~~(8) "LGBTQIA2S+" means people who are lesbian, gay, bisexual, transgender or gender expansive, queer or questioning, intersex, asexual, two-spirit, and other terms that may be used for people with a sexual or gender minority identity.¶¶~~

~~(49) "Primary racial or ethnic identity" means the race or ethnicity with which an individual most identifies when opting to choose from multiple designations.¶¶~~

~~(510) "Race" m:¶¶~~

~~(a) Means a demographic designation for a group of people who share a common heredity.¶¶~~

~~(a) Race i, and Includes shared ancestry, national origin and sociocultural characteristics.¶¶~~

~~(b) Race is notDoes not mean a biological, anthropological or genetic distinction.¶¶~~

~~(611) "REALD" means race, ethnicity, preferred spoken and written language, English proficiency, interpreter needs language and disability.¶¶~~

~~(712) "Requestor" means an individual or entity that is required under these rules, required by contract, or otherwise required by law to collecting REALD and SOGI information in accordance with these rules, and includes but is not limited to the Authority, the Department, contractors and subcontractors of the Authority or the Department, and health care providers as that term is defined in Oregon Laws 2020, 1st Special Session, Chapter 12, Sections 40-41.¶¶~~

~~(8.¶¶~~

~~(13) "Sexual orientation" means a demographic designation that describes how a person characterizes their emotional and sexual attraction to others.¶¶~~

~~(14) "SOGI" means sexual orientation, gender identity and gender modality.¶¶~~

~~(15) "Subcontractor" means a person or governmental entity who has a legal agreement with a contractor as that is defined in this rule, to provide goods or services.~~

Statutory/Other Authority: ORS 413.161, ORS 413.042

Statutes/Other Implemented: ORS 413.161

AMEND: 950-030-0020

RULE SUMMARY: Removed reference to Oregon Department of Human Resources. Added requirement to collect date of birth, two questions about who are answering the questions. Clarified requirements response options to include "Don't want to Answer" and "Don't Know".

CHANGES TO RULE:

950-030-0020

Demographic Data Collection Standards ¶

(1) To the greatest extent practicable, all programs and activities of ~~the Authority and Department OHA~~ including activities to promote workforce diversity, and any data collection or reporting ~~Oregon Health the Authority or Department OHA~~ does on behalf of other state agencies, through any means, must collect REALD and SOGI information in accordance with these rules and ~~Authority and Department OHA~~ policy.¶

(2) To the greatest extent practicable, ~~the Authority and the Department OHA~~ must require contractors and subcontractors, who collect, record or report any demographic data on behalf of ~~the Authority and Department OHA~~ to collect REALD and SOGI information in accordance with these rules and ~~Authority and Department OHA~~ policy.¶

(3) A requestor, when collecting REALD and SOGI information in accordance with these rules, must comply with the following standards:¶

(a) Individuals ~~should~~must be asked to self-report answers to the questions and information ~~should~~must not be assumed or prejudged.¶

(b) If an individual is unable to self-report, a family member, advocate, or authorized representative may answer the questions.¶

(c) ~~Never~~A requestor may not fill in demographic information for an individual if an answer is missing or has otherwise not been provided by the individual or the individual's caregiver, except as permitted in section (56) of this rule. Questions must be asked in the exact way they are worded in these rules, except that pronouns can be changed or substituted with proper nouns. For example, the question "How do you identify your race, ethnicity, tribal affiliation, country of origin, or ancestry?" could be changed to "How does your child identify their race, ethnicity, tribal affiliation, country of origin, or ancestry?". The question about hearing loss, "Are you deaf or have serious difficulty hearing?" can be changed to "Is your child deaf or do they have serious difficulty hearing?".¶

(4) Before collecting REALD and SOGI information, the person filling out the REALD & SOGI information must ask the following questions:¶

(a) "Who is filling out this form? Select one:" Response options:¶

(A) The respondent alone:¶

(B) The respondent with another person present:¶

(C) Another person with the respondent present:¶

(D) Another person without the respondent present.¶

(b) If response (B) or (C) of subsection (4)(a) is selected the requestor must ask an additional question: "Who was present with the respondent when the data was reported?"¶

(A) A parent/guardian:¶

(B) Another family member:¶

(C) An interpreter or other professional support(s):¶

(D) Not listed, please specify: (with open text box):¶

(E) N/A, the respondent or another person is filling this out alone.¶

(c) "What is your date of birth? (MM/DD/YYYY)" ¶

(5) A requestor must instruct individuals, either in writing or verbally, that more than one response may be chosen for question (4)(b).¶

(6) When collecting REALD and SOGI information a requestor must offer the following response options in addition to any other responses required in these rules:¶

(a) For all REALD and SOGI questions, except for the question in OAR 943-070-0030(1):¶

(A) "Declined", "declined to answer" or "open-ended text questions:¶

(A) "Don't want to answer". This response ~~should~~must be used by an individual or the individual's caregiver when the individual or caregiver is choosing not to answer the question.¶

(B) "Unknown," or "do not know". This response ~~should~~must be used by an individual or an individual's caregiver when the individual or caregiver does not know the answer to the question.¶

(b) For questions regarding primary racial or ethnic identity in OAR 94350-0730-0030(3), in addition to the response options listed in subsection (a) of this section, a requestor must include the following response options:¶

(A) "I do not have just one primary racial or ethnic identity".¶

(B) "I identify as Biracial or Multi-racial".¶

(c) ~~R~~In addition to the response options listed in subsection (6)(a) of this rule, response options for the disability questions specified in OAR 94350-0730-0050-(2)(e) and (3)(b), ~~in addition to the response options listed in subsection (4)(a) of this rule,~~ and the SOGI questions specified in OAR 950-030-0060(3), (6) and (9) must also include the response option "~~I do not~~Don't know what this question is asking".¶

(57) When the race, ethnicity, signed, written or spoken language ~~or, disability, status~~sexual orientation or gender identity of an individual is required by federal law and an individual is unable or unwilling to self-report, this information ~~must~~ may be recorded by the requestor ~~as with the additional~~ "staff determined" ~~combined with the "unknown" category for state level analysis information.~~¶

(68) When reporting REALD and SOGI responses, a requestor must:¶

(a) Mark a response as "not applicable" or leave blank if a question was allowed to be skipped under the rules.¶

(b) Mark a response as "did not answer" or "missing" or "leave blank" if the question was applicable but was not answered with any response.¶

(79) Requests for demographic information must be distinct from questions related to program eligibility criteria and an individual's decision not to answer questions related to demographic data must not affect eligibility or inclusion in any related program or benefit.¶

(810) Nothing in these rules prohibits the collection of information for purposes of establishing eligibility for a specific program or service.¶

(911) The date for when the REALD and SOGI data was collected must be captured and included in the dataset holding the data.¶

(102) Every time data is collected an individual must be asked REALD and SOGI questions unless they have been asked by the requestor within the previous 12 months or have been asked within the last 12 months but there is information missing. If the response to any questions is marked as "missing" or "did not answer" the requestor must attempt to collect the missing information even if the REALD and SOGI questions were asked by the requestor within the last 12 months. A requestor does not need to attempt to collect missing information except annually, if a response is marked as "~~declined~~", "~~declined to answer~~" or "don't want to answer", or the response is marked as "not applicable".¶

(113) Entities using online platforms to collect REALD and SOGI information described in this rule may not use "other" as a response option unless otherwise permitted by these rules.¶

(124) Methods used to collect information in accordance with these rules:¶

(a) Must comply with:¶

(A) The Americans with Disabilities Act (ADA).¶

(B) Title VI of the Civil Rights Act of 1964 to the extent that an individual may have a right to the translation of materials or interpreter services in order to be able to answer the questions.¶

(C) ~~Authority or Department~~Oregon Health Authority policies related to the ADA, language access requirements, or the advancement of health equity.¶

(b) Must account for the need to gather data from individuals with disabilities, non-English speakers and individuals with other access barriers.¶

(c) Must not be used to exclude individuals from data collection efforts just because the method for collection has to be changed to accommodate the needs of particular individuals.¶

(d) If providing written materials, the requestor must ask if there is a need for written materials in an alternate format, including but not limited to: another language, braille, large print, or audio.

Statutory/Other Authority: ORS 413.161, ORS 413.042

Statutes/Other Implemented: ORS 413.161

RULE SUMMARY: Increased number of race and ethnicity subgroups from 39 to 72 based on input from the RAC as well as recent changes in the OMB race and ethnicity data standards. Of these, there are eight new text responses (for each aggregated race/ethnicity group to align with OMB revisions March 2024). Clarified response options for paper forms vs response options for electronic formats.

CHANGES TO RULE:

950-030-0030

Race and Ethnicity Demographic Data Collection Standard ¶¶

(1) An individual must be asked an open-ended question: "How do you identify your race, ethnicity, tribal affiliation, country of origin, or ancestry?"¶¶

(2) At minimum, the demographic data categories in this section must be listed as possible responses with the identifying label of "Racial or ethnic identity" on data collection and intake forms. These categories are designed to aggregate to existing federal reporting categories as those categories are defined in these rules.¶¶

~~(a) American Indian.¶¶~~

~~(b) Alaska Native.¶¶~~

~~(b) American Indian.¶¶~~

(c) Canadian Inuit, Metis or First Nation.¶¶

(d) Indigenous Mexican, Central American or South American.¶¶

~~(e) Hispanic or Latino/a/x Mexican.¶¶~~

~~(f) Hispanic or Latino/a/x Central American.¶¶~~

~~(g) Hispanic or Latino/a/x South American.¶¶~~

~~(h) Other Hispanic or Latino/a/x~~ Enter details, for example, Coquille Indian Tribe, Confederated Tribes of Siletz Indians, Confederated Tribes of Coos, Aztec, Maya, etc. (with open text box).¶¶

~~(f) Afghan.¶¶~~

(ig) Asian Indian.¶¶

(jh) Cambodian.¶¶

(ki) Chinese.¶¶

(lj) Communities of Myanmar.¶¶

~~(mk)~~ Filipino/a.¶¶

(l) Hmong.¶¶

(m) Indonesian.¶¶

(n) Japanese.¶¶

(o) Korean.¶¶

(p) Laotian.¶¶

~~(q) Hmong~~ Pakistani.¶¶

(r) South Asian.¶¶

~~(s) Taiwanese.¶¶~~

(t) Thai.¶¶

(u) Vietnamese.¶¶

~~(tv) Other Asi~~ Enter details, for example, Mongolian, Malaysian, Uzbeks, etc. (with open text box).¶¶

(w) African American.¶¶

~~(ux) C~~ Hamoru (Chamorro).¶¶

~~(v) Communities of the Micronesian Region.¶¶~~

~~(w) Marshallese.¶¶~~

~~(x) Native Hawaii~~ Afro-Caribbean.¶¶

(y) Ethiopian.¶¶

(z) Haitian.¶¶

(aa) Jamaican.¶¶

(bb) Nigerian.¶¶

(cc) Somali.¶¶

(dd) Enter details, for example, Trinidadian, Ghanaian, Congolese, etc. (with open text box).¶¶

(ee) Afro-Latino/a/x/e.¶¶

(ff) Central American.¶¶

(gg) Cuban.¶¶

(hh) Dominican.¶¶

(ii) Guatemalan.¶
 (jj) Mexican.¶
 (kk) Puerto Rican.¶
 (yl) Samoan.¶
 (z) Other Pacific Islander.¶
 (aa) African American.¶
 (bb) Afro-Caribbean.¶
 (cc) Ethiopian.¶
 (mm) South American.¶
 (nn) Enter details, for example, Colombian, Honduran, Spaniard, etc. (with open text box).¶
 (oo) Ashkenazi.¶
 (pp) Sephardi.¶
 (qq) Enter details, for example, Mizrahi, etc. (with open text box).¶
 (rr) Egyptian.¶
 (ss) Iranian.¶
 (tt) Iraqi.¶
 (uu) Israeli.¶
 (vv) Lebanese.¶
 (ww) Palestinian.¶
 (ddxx) Somali.¶
 (ee) Other African (Black).¶
 (ff) Other Black.¶
 (gg) Middle Eastern.¶
 (hh) North African.¶
 (yy) Turkish.¶
 (zz) Enter details, for example, Moroccan, Yemeni, Kurdish, etc. (with open text box).¶
 (aaa) Chamorro (Chamorro).¶
 (bbb) Communities of the Micronesian Region.¶
 (ccc) Fijian.¶
 (ddd) Marshallese.¶
 (eee) Native Hawaiian.¶
 (fff) Samoan.¶
 (ggg) Tongan.¶
 (hhh) Enter details, for example, Chuukese, Palauan, Tahitian, etc. (with open text box).¶
 (iii) Western European.¶
 (jj) Slavic.¶
 (kk) Eastern European.¶
 (ll) Other White.¶
 (mm) Other English.¶
 (jjj) German.¶
 (kkk) Irish.¶
 (lll) Italian.¶
 (mmm) Polish.¶
 (nnn) Romanian.¶
 (ooo) Russian.¶
 (ppp) Scottish.¶
 (qqq) Slavic.¶
 (rrr) Ukrainian.¶
 (sss) Enter details, for example, French, Swedish, Norwegian, etc. (with open text box).¶
 (ttt) Another category not listed. Specify: (with open text box).¶
 (3) A requestor must:¶
 (a) Instruct individuals, either in writing or verbally, that more than one racial or ethnic category may be chosen.¶
 (b) If multiple categories of race or ethnicity are chosen, ask an individual an additional question regarding their primary racial or ethnic affiliation using the categories listed in section (2) of this rule. Ask an additional question if multiple racial or ethnic identity categories are chosen in section (2) of this rule: "If you checked more than one category, is there one you think of as your primary racial or ethnic identity?" ¶
 (A) Response options for paper forms are: ¶
 (i) Yes. Please circle your primary racial or ethnic identity above.¶
 (ii) I don't have just one primary racial or ethnic identity.¶

(iii) No. I identify as Biracial or Multiracial.¶

(iv) N/A. I only checked one category above.¶

(v) Don't know.¶

(vi) Don't want to answer.¶

(B) Response options for electronic formats are: ¶

(i) A list of racial or ethnic identity categories selected by the individual in section (2) of this rule.¶

(ii) I do not have just one primary racial or ethnic identity.¶

(iii) No. I identify as Biracial or Multiracial.

Statutory/Other Authority: ORS 413.161, ORS 413.042

Statutes/Other Implemented: ORS 413.161

RULE SUMMARY: Added a triage question (Do you only use English at home?) to facilitate skip logic for the remaining language questions. Expanded response options for type of interpreter. Added requirement to use the OHA ISO language code list for electronic systems using ISO codes for languages.

CHANGES TO RULE:

950-030-0040

Language and Communication Needs Demographic Data Collection Standards ¶

(1) A requestor is only required to ask a child under the age of five or an adult answering on behalf of a child under the age of five to answer the questions in section (3)(2) of this rule when the requestor needs to communicate directly with the child.¶

~~(2) Skip questions methodology:¶~~

~~(a) If in response to the questions in subsections (3)(a) and (4)(a) of this rule an individual answers that they only use English at home, the requestor does not need to ask the questions in subsections (3)(b) or (4)(b) and (c) of this rule.¶~~

~~(b) If in response to the questions in subsection (3)(a) and (4)(a) of this rule an individual's answer includes a language other than If a requestor or other person has a need for ongoing communication with the individual answering questions, the following question about language and communication needs must be asked:¶~~

~~(a) "Do you only use English but the language is sign language, the requestor does not need to ask at home?"~~

~~Response options:¶~~

~~(A) No.¶~~

~~(B) Yes.¶~~

~~(b) If the response to the questions in paragraph (3)(b)(E) or subsection (4)(ea) of this rule.¶~~

~~(3) If a requestor or other person may have a need for ongoing communication with the individual answering questions, at minimum, the following questions about language and communication needs must be asked is no, the requestor must ask the following questions:¶~~

~~(aA) "What language or languages do you use at home?"¶~~

~~(b) If the individual indicates a response that includes a language other than English or in addition to English the individual should be asked:¶~~

~~(AB) "In what language do you want us to communicate with you in person, on the phone, or virtually: with you?"¶~~

~~(BC) "In what language do you want us to write to you?"¶~~

~~(CD) "Do you need or want an interpreter for us to communicate with you?"¶~~

~~(D) Response options:¶~~

~~(i) No.¶~~

~~(ii) Yes.¶~~

~~(E) "If you need or want an interpreter, what type of interpreter is preferred?" Response options (select all that apply):¶~~

~~(i) Spoken language interpreter.¶~~

~~(ii) Americanssistive Listening Device such as an FM or Loop. Specify: (with open text box)¶~~

~~(iii) CART/Captioning.¶~~

~~(iv) Sign Language iInterpreter.¶~~

~~(iii)I) American Sign Language.¶~~

~~(II) Mexican Sign Language.¶~~

~~(III) Tactile/Pro-Tactile Sign Language.¶~~

~~(IV) Certified Deaf Interpreter for DeafBlind-with, additional barriers, or both.¶~~

~~(ivV) Contact sign language (PSE)-interpreter.¶~~

~~(v) Other (with open text box.¶~~

~~(VI) Another sign language not listed. Specify: (with open text box).¶~~

~~(F) A requestor must instruct individuals, either in writing or verbally, that more than one type of interpreter may be chosen for question (2)(b)(E).¶~~

~~(EG) "How well do you speak English?" Response options:¶~~

~~(i) Very well.¶~~

~~(ii) Well.¶~~

~~(iii) Not well.¶~~

~~(iv) Not at all.¶~~

~~(43) If a requestor is collecting information in accordance with this rule but there is no intent or need for ongoing~~

communication between the requestor, ~~others who may need to communicate with the persons,~~ and the individual answering questions, then the following questions about language and communication needs must be asked:¶

~~(a) "What language or languages do you use at home?"¶~~

~~(b) If the individual indicates a response that includes a language other than English or in addition to English the individual should be asked: "Do you only use English at home?" Response options:¶~~

~~(A) No. ¶~~

~~(B) Yes. ¶~~

~~(b) If the response to the question in subsection (3)(a) of this rule is no, the requestor must ask the following questions: ¶~~

~~(A) "What language or languages do you use at home?"¶~~

~~(AB) "What language would you prefer to use when communicating with someone outside the home about important matters such as medical, legal, or health information?" ¶~~

~~(BC) "What language would you prefer to use to read important written information such as medical, legal, or health information?" ¶~~

~~(eD) "How well do you speak English?" Response options:¶~~

~~(Ai) Very well. ¶~~

~~(Bii) Well. ¶~~

~~(Ciii) Not well. ¶~~

~~(D) Not at all. ¶~~

~~(4) If in response to the questions in subsections (2)(a) or (3)(a) of this rule an individual's answer includes a language other than English but the language is sign language, the requestor does not need to ask the questions in subsections (2)(b)(G) or (3)(b)(D) of this rule. ¶~~

~~(5) Entities collecting language data using ISO 638 standards must use the full ISO code list provided by OHA that includes local codes as well.~~

Statutory/Other Authority: ORS 413.161, ORS 413.042

Statutes/Other Implemented: ORS 413.161

RULE SUMMARY: Added open-ended question for individuals to share what they would like us to know about their disability(ies) to be consistent with all other open-ended questions ask for race/ethnicity and SOGI. Added a question about needs for disability-related accommodations to be consistent about need for interpreters/language access.

CHANGES TO RULE:

950-030-0050

Disability Demographic Data Collection Standards ¶¶

(1) A requestor must ask the following questions regarding functional limitations of individuals of any age, except as specified in section (6Z) of this rule:¶¶

(a) "Are you deaf or do you have serious difficulty hearing?"¶¶

(b) "Are you blind or do you have serious difficulty seeing, even when wearing glasses?"¶¶

(2) A requestor must ask the following questions for individuals five years of age or older:¶¶

(a) "Do you have serious difficulty walking or climbing stairs?"¶¶

(b) "Because of a physical, mental, or emotional condition, do you have serious difficulty concentrating, remembering, or making decisions?"¶¶

(c) "Do you have difficulty dressing or bathing?"-¶¶

(d) "Do you have serious difficulty learning how to do things most people your age can learn?"¶¶

(e) "Using your usual (customary) language, do you have serious difficulty communicating, (for example understanding or being understood by others)?"¶¶

(3) A requestor must ask the following questions regarding functional limitations for individuals 15 years of age or older:¶¶

(a) "Because of a physical, mental, or emotional condition, do you have difficulty doing errands alone such as visiting a doctor's office or shopping?"-¶¶

(b) "Do you have serious difficulty with the following: mood, intense feelings, controlling your behavior, or experiencing delusions or hallucinations?"¶¶

(4) A requestor must ask the individual the following for any "yes" response to any question in sections (1) through (3) of this rule: "If yes, at what age did this condition begin?"¶¶

(5) ~~The requestor must ask the individual for their current age or date of birth if the individual answered "yes" to any one of the questions in sections (1) through (3) of this rule.~~ following "If you identify as someone with a disability, or as having a physical, mental, emotional, cognitive, or intellectual condition, what would you like us to know?" (with open text box). ¶¶

(6) If the individual indicates they have a functional limitation or disability in any of the questions in this section, including the open-ended question specified in subsection (5) of this section, the requestor must ask the following questions: ¶¶

(a) "Do you need or want a disability-related accommodation?" Response options:¶¶

(A) No.¶¶

(B) Yes.¶¶

(b) If the response to the question in subsection (6)(a)(A) of this rule is yes, the requestor must ask "If you need or want disability-related accommodations, specify the type of accommodations preferred:" (with open text box.)¶¶

(6Z) If a requestor is directly asking a child the questions in this rule and not a parent or guardian, the requestor is not required to ask a child under the age of 11 or in a grade level below 5th grade to answer the questions in section (1) and (2) of this rule.

Statutory/Other Authority: ORS 413.161, ORS 413.042

Statutes/Other Implemented: ORS 413.161

RULE SUMMARY: Added new section to specify rules that six questions relating to data collection of sex, gender identity, gender modality, and sexual orientation. These include two open-ended questions (gender identity; sexual orientation).

CHANGES TO RULE:

950-030-0060

Sexual Orientation and Gender Identity (SOGI) Demographic Data Collection Standards

(1) Requestors must ask the following questions in sections (2) through (6) of this rule to individuals aged 12 or older. For individuals under age 12, requestors must ask the questions specified in sections (4) and (9) of this rule.

¶

(2) An individual must be asked an open-ended question regarding gender identity: "Please describe your gender in any way you prefer:"

(3) A requestor must ask the following questions regarding gender identity and gender modality:

(a) "What is your gender?" Response options:

(A) Girl or woman.

(B) Boy or man.

(C) Non-binary.

(D) Agender/No gender.

(E) Genderfluid.

(F) Genderqueer.

(G) Questioning.

(H) Not listed, my gender is: (with open text box).

(I) I have a gender identity not listed here that is specific to my ethnicity: (with open text box).

(b) "Are you transgender?" Response options:

(A) Yes.

(B) No.

(C) Questioning.

(4) A requestor must ask the following questions regarding sex: "What is your sex?" Response options:

(a) Female.

(b) Male.

(c) Intersex.

(d) Not listed, my sex is: (with open text box).

(5) An individual must be asked an open-ended question regarding sexual orientation: "Describe your sexual orientation or sexual identity in any way you prefer:" (with open text box).

(6) A requestor must ask the following question regarding sexual orientation: "What is your sexual orientation? Response options:

(a) Same-gender loving.

(b) Lesbian.

(c) Gay.

(d) Bisexual.

(e) Pansexual.

(f) Straight (attracted mainly to or only to other gender(s) or sex(s)).

(g) Asexual.

(h) Queer.

(i) Questioning.

(j) Not listed, my sexual orientation is: (with open text box).

(7) For individuals who selected the race and ethnicity category of "American Indian" or "Alaska Native" specified in OAR 950-030-0030(2)(a) or (2)(b), the requestor must provide the additional response option of "Two Spirit" for the questions offered electronically that allow for display logic specified in sections (3)(a) and (6) of this rule.

(8) For questions specified in sections (3)(a), (6) and (9) of this rule, a requestor must instruct individuals, either in writing or verbally, that more than one response may be chosen.

(9) For individuals under age 12, the requestor will ask the following question: "Are you currently: Select all that apply." Response options:

(a) A boy.

(b) A girl.

(c) Both.

(d) Something else. Specify: (with open text box).¶

(e) It changes over time.

Statutory/Other Authority: ORS 413.161, ORS 413.042

Statutes/Other Implemented: ORS 413.161

AMEND: 950-030-0200

RULE SUMMARY: Removed reference to Oregon Department of Human Services. Changed Office of Equity and Inclusion to the Equity and Inclusion Division.

CHANGES TO RULE:

950-030-0200

Reporting Progress on Implementation ¶¶

(1) All programs of the ~~Authority and Department~~ Oregon Health Authority that collect demographic data must report to the ~~Office of Equity and Inclusion or Office of Equity and Multicultural Services, as appropriate,~~ Division in February of each even numbered year. Reports shall include information about each program's: ¶¶

(a) Progress in implementing these standards. ¶¶

(b) Challenges to full implementation of these standards. ¶¶

(c) Plan for addressing challenges, including identifying responsible staff and timeline;. ¶¶

(2) The ~~Office of Equity and Inclusion and Office of Equity and Multicultural Services~~ Division shall use data provided by the programs to create a report for the legislature as required by ORS 413.162.

Statutory/Other Authority: ORS 413.042, ORS 413.161

Statutes/Other Implemented: ORS 413.161